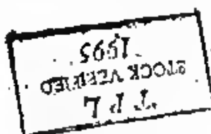
Government of Kerala
1984

Reg. No. KL/TV(N)/12





KERALA GAZETTE

SUPPLEMENTS

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NOTIFICATION

G.O. (Rt.) No. 922/84/LBR. *Dated, Trivandrum, 12th July 1984.*

The award of the Industrial Tribunal, Quilon in respect of the dispute between the Managing Director, Kerala State Cashew Development Corporation Limited, P. B. No. 13, Quilon and the workmen of the above concern represented by the General Secretary, Kerala State Cashew Development Corporation Swathanthra Thozhilali Federation, High School Junction, Quilon-13. received by Government 9-7-1984 is hereby published under section 17, of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Court of the Industrial Tribunal, Quilon

(Dated, this the 5th July 1984)

Present:

SRI C. N. SASIDHARAN, B.SC., B.L.

Industrial Tribunal

In

INDUSTRIAL DISPUTE No. 9/82

Between

The Managing Director, Kerala State Cashew Development Corporation Limited, P.B. No. 13, Quilon

(By Sri N. Krishnan Kutty, Advocate, Trivandrum)

And

The Workmen of the above concern represented by:

The General Secretary, Kerala State Cashew Development Corporation Swathanthra Thozhilali Federation, High School Junction, Quilon-13

(By Sri David Keshy, Advocate, Quilon)

Sri Sankaran (Additional Party)

ORDER

The issue referred for adjudication by the Government of Kerala as per G.O. (Rt) No. 1240/78/L&H dated 3-8-1978 is "Promotion and Confirmation of Sri Sankaran, Card No. 205."

The case advanced by the union is briefly thus:— Sri Sankaran was appointed as a Sheller in the Year 1972 in Factory No. 19 of Kerala State Cashew Development Corporation, Ezhukone and was treated as a substitute roaster from the beginning. One Sri Kunjuraman was appointed as Sheller in the same Factory towards the end of 1973, and was also treated as a substitute roaster. From 1972 to 1973 Sri Sankaran was given wages as per vouchers and his Attendance was not marked. A vacancy of roaster arose in 1979 in the aforesaid Factory. The post of roaster was filled by the management from among the substitute roasters as per seniority. Sri Sankaran was senior to Sri Kunjuraman in experience and attendance. Sri Sankaran had an attendance of 243 as substitute roaster whereas the aforesaid Sri Kunjuraman had an attendance of only 143. But, the management appointed Sri Kunjuraman as roaster overlooking the seniority of Sri Sankaran and thus denied the post to Sri Sankaran. The action of the management is against custom, law, rules and justice. Sri Sankaran is entitled to the post of roaster senior to Kunjuraman.

The case advanced by the management is thus: The management corporation is a Government owned Public Sector undertaking engaged in the business of Cashew Processing and Exporting. It has several factories including the one at Ezhukone. Sri Sankaran was engaged as substitute roaster when there was short vacancies in the roasting worker category. There were other persons also as substitute roasters. The post of roaster is not a promotion post. The management will fill up the vacancy either by selection from among daily rated male shellers, Peelers or Mycauds or even from outside, duly considering the previous claims, experience, age, suitability etc. Three vacancies arose in September, 1977. Though the management has the right to fill up the vacancies of roaster in any manner as stated above, the management consulted the issue with union representatives. As the Trade Unions unanimously suggested three persons, namely S/s Ayyappan, Bhaskaran and Kunjuraman to be appointed as roasters in the above vacancies, they were appointed as found suitable. The appointment is not by promotion but by selection. Hence the question of promotion and confirmation does not arise. Sri.Sankaran cannot claim the post with reference to the attendance as a substitute roaster. There is no prescribed rule or custom regarding the selection of roaster. The selection is a matter of discretion of the management. The order of reference is not sustainable in law in as much as there is no Industrial Dispute between the management and the Kerala State Cashew Development Corporation Swathanthra Thozhilali Federation. The Federation does not represent a substantial section of the workmen of the Factory and they are not competent to raise an Industrial Dispute.

The union filed a replication re-iterating their contentions and denying the allegations of the management.

The worker Sri Sankaran was impleaded as an additional party by order dated 2-12-1982.

The evidence consists of the testimony of WW1, MW1, and Ext. M1.

In the fore-front of his submissions the learned counsel for the worker contended that Sri Kunjuraman was appointed as roaster overlooking the seniority and experience of Sri Sankaran. Further, the post of roaster is a promotion post and Sri Sankaran is having 243 attendance as substitute roaster whereas Sri Kunjuraman is having only 143 attendance. Sri Sankaran as WW1 has deposed in support of these contentions. He has further stated that Sri Kunjuraman was appointed due to political consideration and that Sri Sankaran is a member of the Kerala Trade Union Congress which union has no representative on the Director board of the Corporation. Hence he was not selected. The management on the contrary contend that the roaster's post is not a promotion post and that there are no Rules or Regulations regarding the appointment of roaster. The Personnel Manager of the Corporation, has given evidence as MW1 to prove the management's case. According to this witness, three persons were appointed as roasters after consultations with the unions and after due consideration of suitability and other claims.. He has proved Ext. M1, the joint requisition of the Trade Unions to appoint three persons.

From the evidence it would appear that when three vacancies of roasters arose, they were filled by posting from Shellers to which category the worker Sri Sankaran also belongs. Though there is no clear evidence regarding any rules relating to roasters post, it is evident that the management has adopted a practice of filling the above post from among the Shellers. The management does not have a case that the worker in question is in any way unsuitable to be appointed in the post of roaster. There is no dispute as to the existence of a vacancy from January 1983. There is no evidence to prove that the vacancy arose in the year 1977 as contended by the worker, and that the post of roaster is a promotion post, except the interested testimony of Sri Sankaran. Even if he is eligible to be appointed as roaster, he cannot therefore claim the post from 1977. Considering all the circumstances of the case and particularly the fact that other persons having the same qualification and holding the same post as that of the worker in question had been posted as roasters when vacancies arose, I find that in the interest of justice the worker, Sri Sankaran, should not be denied posting as roaster in the existing vacancy.

In the result an award is passed directing the management to appoint Sri Sankaran as roaster in the existing vacancy with effect from 1-1-1983 with all benefits.

C. N. SASIDHARAN,
Industrial Tribunal.

Quilon.

Appendix

Witness examined on the side of the worker:—

WW1. Sri R. Sankaran

Witness examined on the side of the Management:—

Sri. N. Ravidasan

Exhibits marked on the side of the Management:—

M1. Joint requisitioa submitted by the unions.

Kerala Gazette No. 48 dated 4th December 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 928/84/LBR. *Dated, Trivandrum, 12th July* 1984.

The award of the Labour Court, Quilon in respect of the dispute between the Proprietor, Mubarak Saw Mills, Chathannoor P. O. and their workmen represented by the General Secretary, Quilon Saw Mills Workers' Union U.T.U.C., Quilon received by Government on 11-7-1984 is hereby published under section 17 of the industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. Padmavathy Amma,
Deputy Secretary to Government.

In the Labour Court, Quilon

(Saturday the 23rd day of June, 1984/2nd Ashadha 1906)

Present:

Smt. C. VISALAKSHI AMMA, B.A., B.L.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 44/78

Between

The Proprietor, Mubarak Saw Mills, Chathannoor P. O.

And

The General Secretary, Quilon Saw Mills Workers' Union, U.T.U.C., Quilon.

Representations:—

Mylacattu Sri R. Sadasivan Nair, Advocate, Quilon. } For *the Employer*

Sri K. Sivadasan, Advocate, Quilon. } For *the Union*

GA.353/J.

AWARD

This Industrial Dispute between the proprietor of Mubarak Saw Mills, Chathannoor and its workmen was referred to this Court for adjudication by the Government of Kerala as per G. O., (Rt.) No. 666/78/ L & H dated 21-4-1978.

Issue referred is:—

"Denial of employment to M/s. (1) Kuttan Pillai, (2) Surendran, (3) Bhasheer (4) Lawrence. (5) Thulasi (6) Ebrahim (7) Basheer (8) Balan Pillai (9) Suresh Babu, (10) Anandan (11) Bhadran.

An exparte award was passed by this Court on 31st July 1981 but that award was set aside on the basis of a petition filed by the management and the Industrial Dispute was restored to file. Thereafter, the case was posted for evidence of the workers involved in this dispute. WW1 who was examined during the exparte trial was recalled and cross examined by the management. The other witnesses WW2 and WW3 did not turn up inspite of repeated adjournments and as such they were not available for cross examination. WW1 would state that he is still employed in the management saw mill and that Workers No. 6, 7 and 10 are also being employed there. His evidence would further disclose that six of the employees bad left the management's service during the period of lock out in 1976 and that thereafter they had never turned up for work. This evidence of WW1 is not at all helpful to show that work was denied to the employees referred to in the reference order. As WW2 and WW3 did not turn up for giving evidence, the case was posted for recording the evidence of the management. But the management was also continuously absent. On 27-2-1984 it was represented that the proprietor of the management saw mill is no more, Hence the Industrial Dispute was posted for impleading the legal heirs of the deceased proprietor. But hitherto the union has not taken any steps to get the legal heirs of the proprietor impleaded in the party array. Both sides were continuously absent from 19-3-1984 onwards. Finally the case was posted to 23-6-1984 and on that day also nobody was present either on behalf of the management or on behalf ol the union.

From the facts that both parties remained absent and the union had failed to take steps to implead the legal heirs of the management, it has to be presumed that the dispute might have been settled between the parties. At any rate there is no ground to pass an award granting any relief to the workmen concerned in this case.

In the result I pass an award declaring that there is no subsisting dispute between the parties, at present to be adjudicated by this Court.

This award shall come into force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. VISALAKSHI AMMA,
Presiding Officer.

Appendix

Witnesses examined on the side of the Management :

MW1 —Dr. G. Thulaseedharan
MW2 —A. Salaludeen

Witness examined on the side of the Worker :

WW1 —Balan Pillai

Exhibits marked on the side of the management :

Ext. M1 —Medical Certificate issued by MW1.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 899/84/LBR. *Dated, Trivandrum, 6th July 1984.*

The award of the Labour Court Quilon in respect of the dispute between the General Manager, Sujir Ganesh Naik and Company, P.O. Box No. 125, Quilon and the workman of the above establishment represented by the General Secretary, Kerala Kasuvandi Thozhilali Congress, I.N.T.U.C., Quilon received by Government on 3-7-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

T. Padmavathy Amma,
Deputy Secretary to Government.

In the Labour Court, Quilon

(Wednesday the 27th day of June 1984/6th Ashadha 1906.)

Present:

Smt. C. Visalakshi Amma, b.a., b.l.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 31/80

Between:

The General Manager, Sujir Ganesh Naik and Company, P.O. Box No. 125, Quilon.

And

The workman of the above establishment represented by the General Secretary, Kerala Kasuvandi Thozhilali Congress, I.N.T.U.C. Quilon.

Representation:—

M/s. N. Krishnan Kutty & Hiran Babu, Advocates, Trivandrum. } For *the Management.*

GA. 348/SMT (1)

AWARD

This Industrial Dispute is referred to this Court for adjudication by the Government of Kerala as per G.O. (Rt.) No. 736/80/LBR dated 23-5-1980.

The issue referred is:—

"Denial of employment to Smt. Bhadra, Ayah".

The General Secretary of the Kerala Kasuandi Thozhilali Congress, Quilon filed a claim statement, raising the following allegations:—

Smt. Bhadra, who is the worker involved in the dispute was employed in S. G. Naik and Company, Ayathil Branch Factory as an Ayah. Formerly she was working as a grader and the management promoted her as Ayah as per memo dated 26-10-1978. After the promotion, the factory was handed over to the Kerala State Cashew Development Corporation as per the agreement arrived before the Hon'ble Supreme Court and its subsequent order, for temporary processing. As the management did not inform the Kerala State Cashew Development Corporation about the promotion of Smt. Bhadra she was not provided with work as an Ayah. This issue was taken before the District Labour Officer and as per a compromise involved therein Smt. Bhadra was considered as Ayah and paid the benefit accrued thereby, for the last 16 days. When the management got back the factory from Kerala State Cashew Development Corporation and restarted work Bhadra was refused employment. The said denial of employment is arbitrary and is a case of victimisation. It is therefore prayed that Bhadra may be reinstated in service as Ayah with full backwages.

The management filed a written statement wherein it is contended as follows:—

Smt. Bhadra was not a grader but only a peeling worker in the Ayathil factory. This factory has a creche for looking after the children of the women workers in the factory. In 1978 there were more than 35 children in the creche. In the creche, there is a permanent monthly paid Ayah and also a daily rated helper. The trade Unions representing the workmen of the factory demanded that an additional Ayah should also be appointed in the creche from among the female workers of the factory. In view of the numerical strength of children and after several negotiations with the unions it was agreed that one female worker my be temporarily appointed as additional Ayah on a daily rated basis. The choice of the candidate was left the I. N. T. U. C. Union. The local unit of the I.N.T.U.C. union suggested one Sumathy to be appointed as Ayah and accordingly she was appointed as Ayah on a temporary basis. But the central office of the union did not approve the appointment of Smt. Sumathy, as Ayah. But this time the Ayathil Factory had been handed over to the Kerala State Cashew Development Corporation on 16-10-1978 for their processing as a temporary arrangement, on the basis of the Supreme Court order. Subsequently on 26-10-1978 the management requested the Kerala State Cashew Development Corporation that Smt. Bhadra nominated by the

I.N.T.U.C. union may be appointed as temporary Ayah in the factory. But she was not provided with work as Ayah by the Kerala State Cashew Development Corporation. Thus there was no occasion for her to work as an Ayah in the Ayathil factory at any time. Thereafter the management got back the factory on 15-1-1979 but there was no work in the factory due to the dearth of raw cashewnuts. The work was resumed only on 9-5-1979 and the peeling work started on 12-5-1979. At that time the number of children in the creche was only about 10 and therefore it was felt that there was no necessity to engage an additional Ayah and hence on 12-5-1979 Smt. Bhadra was directed to work as peeler in her substantial post. She was assured that whenever a vacancy in the post of Ayah occurs her claim will be considered. She did not respond to the order of the management and did not report for duty as a peeler. She was not denied work as alleged in the claim statement. On these grounds it is contended that the worker is not entitled to any of the reliefs claimed.

The union thereafter filed a replication admitting that Smt. Bhadra was originally working as a peeling worker. and that she was shown as a grader in the statement by mistake. But it is contended that there was no reduction in the number of children as pleaded by the management and that denial of employment to her as Ayah is only a case of victimisation.

In the light of the pleadings the point to be considered is :—

Whether there was denial of employment by the management and if so whether the worker is entitled to reinstatement with backwages.

The evidence consists of the oral depositions of WW1 and 2 and MW1 and Exts. W1 and M1 to M6.

The case of the union is that the worker Smt. Bhadra was originally working as a peeler in the management factory at its Ayathil Branch and that thereafter she was promoted as an Ayah. The management also, would admit that Smt. Bhadra, was formerly working as a peeler in the factory. It is their case that there is a creche in that factory where the children of the women workers are looked after and for that there is a permanent Ayah and a daily rated helper in the creche. According to them there was about 35 children in the year 1978 and so considering the numerical strength of the children the unions in the factory were insisting for the appointment of an additional Ayah on a temporary basis. That was agreed to and the I.N.T.U.C. Union was given the choice to make the suggestion. Accordingly one Sumathy was suggested by the local unit of the I.N.T.U.C. to be appointed as an additional Ayah. But thereafter the central office of the union objected to her appointment and they wanted Smt. Bhadra to be promoted as Ayah. By that time the factory had been handed over to the Kerala State Cashew Development Corporation. Hence the management requested the corporation to appointment Bhadra as an Ayah in the factory. It is their further contention that inspite of their request, the corporation had failed to give her work as Ayah. Subsequently the management got back the factory but the strength of the children got

reduced considerably. As the strength was below 10 there was no necessity to appoint an additional Ayah and so she was directed to work in the peeling section itself, which she refused. Hence according to them there is no denial of employment but Bhadra herself refused to work as a peeler in her substantive post.

Though the management would contend that Smt. Bhadra had never worked as Ayah in the factory, Ext. W1 would show that Smt. Bhadra had worked under the corporation as an Ayah from 26-12-1978 to 8-1-1979. The question is how far Ext. W1 can be believed. A perusal of Ext. W1 would show that it is a handwritten copy of a certificate said to have been issued by the Kerala State Cashew Development Corporation. But it does not contain either the signature or the seal of the corporation. Hence the same cannot be considered as a certified or a true copy of the original. The original certificate is not forthcoming. In the circumstances the case of the union that she had worked as an Ayah cannot be accepted at its face value. There was a request made by the management to post her as an Ayah but there is no convincing evidance to show that such appointment had actually taken effect. Exts. M1 to M6 would show that the contentions raised by the management are true. Ext. M2 is a letter written by the management company to the Cashew Corporation requesting the Corporation to post Smt. Bhadra as an Ayah in the place of Smt. Sumathi. From Ext. M2 it can also be seen that such a request was made on the basis of the nomination made by the central office of the I.N.T.U.C. unit. Their contention is that thus the request of the union for the appointment of an additional Ayah was accepted by the management in the year 1978 since there were more than 35 children in the creche during that period. But thereafter when the management got back the factory the strength of the children got reduced and so there was no necessity for 2 Ayahs and a helper. In support of their contention Ext. M3 and M4 series are produced. Ext. M3 series would show that in the year 1978 there were about 38 children in the creche eventhough their attendance varied on different days. But when the management got back the factory in the year 1979 the number of children became less. On 10-5-1979 there were no children at all in the creche. On certain days the number of children present were 10 or 12. But on certain other days the number of children present were 18. It was under such circumstances Smt. Bhadra was directed to work as a peeler in her substantive post.

Smt. Bhadra is examined as WW1. She would state that at the intervention of the union she was posted as Ayah in the factory and that she had worked as Ayah under the corporation for about 14 days. But after the management got back the factory they are denying employment to her. She therefore claims reinstatement. WW2 examined on the side of the worker would also state that Bhadra had worked as Ayah and that the management had denied employment to her. But in the absence of any convincing record or an appointment order, it cannot be presumed that Bhadra had really worked as an Ayah in the factory inspite of the letter written by the management. MW1 who is examined on the side of the management

would swear that the appointment of the Ayah is made on the basis of the number of children in the creche. According to him even after appointment, the services of the Ayah can be terminated if she was found to be inefficient or if the number of children in the creche has considerably reduced. It is his definite case that there is such a provision in the standing order. Though Bhadra would state that such a contention raised by the management is absolutely false, there is no evidence adduced by her to prove that the number of children is far greater than that mentioned by the management. From Ext. M3 series it is quite clear that the number of children had been considerably reduced during the year 1979. It was under such circumstances she was directed to work as a peeler. Ext. M1 is the letter dated 12-5-1979 written by the management to Smt. Bhadra intimating her that she should join duty as a peeler and that whenever vacancy arises in the creche her claim would be considered. Copy of this letter had been given to the District Labour Officer also. From that letter itself it is clear that Bhadra was not prepared to work as a peeler. Ext. M6 is a letter written by the Union to the management company in reply to Ext. M1 order. In that letter the union has stated that the contention of the management regarding the full in the number of children in the creche is absolutely false and that Bhadra should be given employment. Still the union has not cared to adduce any evidence to show that there is sufficient number of children in the creche to justify the appointment of an additional Ayah in the factory. It is in evidence that there is a permanent Ayah and a daily rated helper in the creche. At present the number of children is also very low and hence it cannot be said that the appointment of 2 Ayahs is necessary to look after the children. The union cannot insist that two Ayahs should be appointed in the creche even if the number of children has became far less than the original number which necessitated such appointment. I therefore find that the reasons mentioned by the management in Ext. M1 letter for posting her as a peeler is just and proper. There is actually no denial of employment. In view of Ext. M1 order it is clear that her temporary promotion as an Ayah has been terminated and that thereafter she was directed to work as peeler, for which she was not willing. The management has even intimated her that her claim to be appointed as an Ayah would be considered as and when vacancy arises in the creche. Still she was not prepared to accept the employment and to work as a peeler in her substantive post. It follows that there is actually no denial of employment to Smt. Bhadra. The worker is therefore not entitled to the relief of reinstatement as Ayah, as pleaded in the claim statement.

In the result an award is passed declaring that there is no denial of employment to Bhadra and that she is not entitled to be reinstated as Ayah as claimed for. In the circumstances parties will suffer costs.

This award shall come in to force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. Visalakshi Amma,
Presiding Officer.

Appendix

Witness examined on the side of the Management:

MW1 G. Bhargava Kurup.

Witnesses examined on the side of the Worker:

WW1 Bhadramma
WW2 R. Savithri.

Exhibits marked on the side of the Management:

Ext. M1 Copy of the notice dated 12-5-1979 issued to Smt. Bhadra.

" M2 Copy of the letter dated 26-10-1978 from S.G. Naik and Company to the Kerala State Cashew Development Corporation.

" M3 (Series) Daily attendance return of Sujir Genesh Factory Ayathil for the period from 18-8-1978 to 20-9-1978.

" M4 (Series) Daily attendance return of S.G. Naik Factory Ayathil for the period from 10-5-1979 to 1-6-1979.

" M5 Postal acknowledgement signed by Smt. Bhadra on 14-5-1979.

" M6 Letter dated 14-5-1979 of the General Secretary, Kerala Kasuvandi Thozhilali Congress to the Manager, Sujir Ganesh Naik & Company, Ayathil.

Exhibits marked on the side of the Worker:

Ext. W1 Copy of the letter dated 26-3-1979 of the Kerala State Cashew Development Corporation Ltd., to the Manager, S.G.N. Cashew Company, Ayathil.

Kerala Gazette No. 48 dated 4th December, 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1157/84/LBR. *Dated, Trivandrum, 25th August 1984.*

The award of the Labour Court, Quilon, in respect of the dispute between Sri K. K. Surendran, Proprietor, Surendra Medical Store, Kottiyam and the workman of the above Medical Store namely Sri K. Mohanan, Cherukulathu Veedu, Kottiyam P. O., Quilon received by Government on 22-8-1984 is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Labour Court, Quilon

(Monday, the 20th day of August 1984/29th Sravana, 1906)

Present :

SMT. C. VISALAKSHI AMMA, B.A.B.L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 26/82

Between

Sri K. K. Surendran, Proprietor, Surendra Medical Store, Kottiyam

And

The workman of the above Medical Store namely Sri K. Mohanan, Cherukulathu Veedu, Kottiyam P.O., Quilon.

Representations :

Shri G. Haridas,
Advocate, Quilon. .. For *the Management*

Shri N. Thulaseedharan,
Advocate, Quilon. .. For *the Worker*

C. A. 384/J.

AWARD

This Industrial Dispute between K. K. Surendran, Proprietor, Surendra Medical Store, Kottiyam, and his workman Sri K. Mohanan was referred to this Court for adjudication by the Government of Kerala as per G.O. (Rt.) No. 1330/82/LBR. dated 7-12-1982.

The issue referred is :—

"Denial of employment to Sri K. Mohanan".

The facts which led to the reference are the following :—The opposite party management is the proprietor of Surendra Medical Store, Kottiyam in Quilon. This workman was appointed as an employee in the Medical Store of the opposite party on 15-10-1977 and ever since he was working as a Salesman in the Medical Store on a monthly salary of Rs. 360. But on 2-10-1981 the opposite party management without any valid reason denied employment to the petitioner workman. Inspite of repeated requests the management is not prepared to give him employment or his wages. His wages from 15-10-1979 onwards is in arrears. The conciliation conferences held by the Labour Officer also did not succeed. Finally a dispute was raised before the Labour Commissioner which ultimately led to this reference. It is prayed that the management may be directed to reinstate the workman in service with full backwages.

The management filed a written statement raising the following contentions :—The management never appointed this worker as an employee or as staff of the Medical Store. No wages have been given to him at any point of time; and since he is not an employee there is no question of payment of any wages. There is no employer-employee relationship between the management and the worker. There was no employee in the Medical Store till June, 1983. The opposite party and his wife are registered Pharmasists and they themselves were conducting the Medical Store with the assistance of their son. From June 1983 onwards one Mohanan Pillai has been appointed to assist him. On these grounds it is contended that the claims put forward by the petitioner workman are false and cannot be allowed.

The worker filed a rejoinder denying the contentions raised in the written statement and reiterating his claims.

Inspite of repeated notices issued to the workman he has not turned up to give evidence in support of his case. The management already entered appearance and filed its written statement.

Since the workman did not appear and substantiate his claim I pass an award holding that he is not entitled to any relief in respect of the alleged denial of employment.

This award shall come into force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. VISALAKSHI AMMA,
Presiding Officer.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 766/84/LBR. *Dated, Trivandrum, 5th June 1984.*

The award of the Labour Court, Quilon in respect of the dispute between Sri Vijayan Unnithan, Proprietor, Vijaya Talkies, Adoor and the workman of the above establishment represented by the General Secretary, Kunnathur Taluk Abkari Employees & General Workers Union, CITU, Adoor received by Government on 1-6-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
A. S. MONI ACHARI,
Deputy Secretary to Government,

In the Labour Court, Quilon

Monday the 21st day of May, 1984/31st Vaisakha, 1906.

Present

SMT. C. VISALAKSHI AMMA, B. A., B. L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 12/83

Between

Sri Vijayan Unnithan, Proprietor, Vijaya Talkies, Adoor.

And

The workman of the above establishment represented by the General Secretary, Kunnathur Taluk Abkari Employees & General Workers Union, CITU, Adoor

Representations:

Sri C. R. Rajan
Advocate, Quilon. } For *the Management*

Shri V. Dilip kumar
Advocate, Quilon. } For *the Worker*

AWARD

This Industrial Dispute between the Proprictor, Vijaya Talkies, Adoor and the workman represented by the General Secretary, Kunnathur Taluk Abkari Employees & General Workers Union (CITU), Adoor was refferred to this Court for adjudication by the Government of Kerala as per G. O. (Rt.) No. 500/83/LBR dated 12-5-1983.

The issue referred is:
"Dismissal of Sri. Shamsudheen, Gate Keeper of Vijaya Talkies, Adoor".

Notice was issued to the parties but the Union representing the workman did not enter appearance nor did they file any claim statement on behalf of the worker. The case was therefore posted for the written statement of the management.

The management entered appearence and filed a written statement raising the following contentions:—

It is true that Shamsudheen was an employee of the theatre as a gate keeper. But he was dismissed from service by way of disciplinary actions. He was dismissed on the basis of charges of misconduct. After detecting the said misconducts the management issued a show cause notice to the worker and his explanation was obtained. As his explanation was not satisfactory a charge of misconduct was framed against him and an enquiry was conducted by Sri Tharayil R. Ramakrishnan, Advocate, Adoor. The enquiry was conducted in a proper and valid manner after complying with all the required formalities and giving ample opportunity to the worker to defend his case. In the enquiry the worker and another, representing his union participated, and his witnesses were examined. He was also allowed to let in his documentary evidence. The enquiry officer entered a finding that all the misconducts alleged are proved against the worker. Accepting the findings, he was dismissed from service. The worker is therefore not entitled to any of the reliefs claimed for.

Even after the filing of the written statement the union did not file any statement on behalf of the worker. The case was therefore posted for recording evidence; but neither party entered appearance nor adduced any evidence.

In view of the fact that the parties have not come and prosecuted the case and also in the light of the written statement filed by the management. I find that there is no subsisting dispute between the parties and that therefore no award is to be passed granting any relief to the workman in question.

In the result I pass an award declaring that there is no subsisting dispute between the parties for adjudication by this court at present. Parties to bear costs in the circumstances of the case.

This award shall come into force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. VISALAKSHI AMMA,
Presiding Officer.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1382/84/LBR. *Dated, Trivandrum, 22nd October 1984.*

The award of the Industrial Tribunal, Alleppey in respect of the dispute between the Assistant Divisional Manager, Allied Sales Corporation, M. G. Road, Ernakulam and the workmen of the above concern represented by (1) - The General Secretary, Cochin Commercial Employees Association, 1/1292, Amaravathy Road, Cochin-682 001. (2) Ernakulam Shops and Commercial Employees Union, Cloth Bazar, Cochin-11, received by Government on 11-10-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Court of the Industrial Tribunal, Alleppey

(Dated, this the 21st day of September 1984)

Present:

SHRI K. KANAKACHANDRAN,
Industrial Tribunal

In

INDUSTRIAL DISPUTE No. 3/1983

Between

The Assistant Divisional Manager, Allied Sales Corporation, M. G. Road, Ernakulam

And

1. The Workmen of the above concern represented by The General Secretary, Cochin Commercial Employees Association, 1/1292, Amaravathy Road, Cochin-682 001.
2. Ernakulam Shops and Commercial Employees Union, Cloth Bazar, Cochin-11.

A. 402/202/J.

Representations:

M/s V.M. Kurian & A. V. Thomas, Advocates, Ernakulam. ... For *Management*

Sri S. Nirmal Kumar, Advocate, Cochin-16. ... For *Union No. 2*

AWARD

The only issue referred for adjudication by G. O. (Rt.) No. 262/83/LBR dated 7-3-1983 is regarding the leave benefits of the employees working in the Management establishment.

The union which raised the dispute was declared ex parte as early as on 5-5-1983 itself. Subsequently, another union which is also functioning in the management establishment filed an application for impleading on 27-7-1983. This application for impleading was resisted by the management contending that Ernakulam Shops and Commercial Employees Union has no locus standi to pursue with this Industrial Dispute. By a considered order dated 28-9-1983, I. allowed the impleading petition and Ernakulam Shops and Commercial Employees Union was allowed to prosecute the dispute referred for adjudication. Even this impleaded union was declared ex parte by an order dated 8-12-1983; but later that order was set aside on filing a review application.

This is a case in which both sides are equally indifferent in prosecuting the matter. Even after the starting of evidence, both sides were absent on two occasions. Since the facts are brought in evidence through statements and documents, I wish to pass an award on the materials available on record.

The union's case is that the employees were enjoying the benefit of 12 days' casual leave, 15 days' sick leave and 28 days annual leave till 1966, but it was drastically cut short byan Office order. Even according to WW1, the office order curtailing the number of leave was circulated to all employees as early as during 1966 and all of them had acknowledged the receipt of the office order. But they were making representations for the restoration of old leave benefits. Only because the response from the management was poor, workers were compelled to raise this industrial dispute.

The management did not adduce any oral evidence in this case. Regarding the claims of the workman on the question of leave benefits, the management has stated as follows :—

> "Leave rules were framed for all the offices under the Madras Zone including the Kerala office on 1-6-1966. Leave rules for Kerala was framed with the concurrence and consent of the employees of the establishment. The leave rules thus framed was put into effect from 1-7-1966. Leave rules were framed for the Kerala, Mysore, Andhra and Madras office in confirmity with the local laws of the respective states; in Kerala, the Kerala

Shops and Commercial Establishments Act 1960. None of the employees of the establishment in Kerala objected to the framing or implementation of the leave rules. Leave rules were applied and availed of by the employees without any grievances being raised from 1-7-1966.

Charter of demands were raised on different occasions by the employees and there were settlements between the employees and the management of the establishment dated 27-2-1974, 5-7-1977 and 10-1-1980. The leave rules were never made a subject of dispute.

It is further stated in the written statement that in framing leave rules, Madras Zonal Office was given special consideration, considering the nature of work carried out by the employees in that office. It is also admitted in the written statement that the employees working in the Carnataka region are given 18 days of Annual/Privilege leave as against the 12 days of annual leave given to the employees in the Kerala region. The management has not explained how and why employees of Karnataka region are given a differential treatment in the matter of annual leave. No statutory provision was also brought to my notice to show that the employees of Kerala Region are entitled only for 12 days of annual leave and they are ineligible for 18 days of annual leave as is enjoyed by the employees of Karnataka region.

Considering the materials available on records, I pass this award holding that the workmen concerned in this dispute are entitled for 18 days of Annual/privilege leave as is now being enjoyed by the employees of Karnataka region in identical situation.

In the written statement the management states that the employees of Madras Zonal Office are given special consideration considering the nature of work done by them there. In the demand made by the workmen on 27-4-1981, there is a reference that still the employees of Madras Zonal Office enjoy 58 days of leave in an year, but there is no convincing evidence to show that. The management has not explained under what circumstances, the employees of Madras Zonal Office are given better leave facilities. In the absence of convincing reasons, descremination shown to the employees of Kerala region can only be declared as arbitrary. Therefore I hold that the workman concerned in the dispute are also entitled to identical leave facilities which are now being enjoyed by the employees of Media Zonal Office.

Award is passed accordingly.

K. KANAKACHANDRAN,
Industrial Tribunal.

Kerala Gazette No. 48 dated 4th December 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 895/84/LBR. *Dated, Trivandrum, 6th July 1984.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Manager, Pallivasal Estate, Pallivasal and the workmen of the above estate represented by the Secretary, Devicolam Estate Workers Union, Munnar received by Government on 5-7-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

(Tuesday, the 26th June 1984)

Present:

SHRI N. SUKUMARAN, B.SC., B.L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 51/1982

Between

The Manager, Pallivasal Estate, Pallivasal

And

The workmen of the above estate represented by the Secretary, Devicolam Estate Workers Union, Munnar.

Representations:—

M/s Menon & Pai, Advocates, Ernakulam. — For *Management*

Shri K. Damodara Kurup, Advocate, Ernakulam. — For *Union*

GA 345/SMT (1)

AWARD

The issues referred for adjudication by Government as per G. O. (Rt.) No. 1266/82/LBR dated 19-11-1982 are the following:—

"1. M/s Mahalingam should be offered Supervisory work with back wages from 23rd April 1980. (2) M/s Subbiah and Muniandy—Nursery Division, should be offered Supervisory work. (3) Kanthasamy should be offered watcher's work. (4) Vanniaperumal should be reinstated with back wages."

II. Issue No. 4 concerning Shri Vanniaperumal relates to his dismissal after a domestic enquiry. His case required separate treatment and that was taken up initially to see whether the domestic enquiry conducted against him was valid and proper. I found as per my preliminary order dated 10-10-1983 that there was a valid and proper domestic enquiry. Facts necessary for the disposal of the case are narrated in that preliminary order which reads as follows:

PRILIMINARY ORDER

In this reference several issues are clubbed together when 'Issue No. 4' concerning the dismissal of a worker by name Vanniaperumal has nothing in common with the other issues. Shri Vanniaperumal was dismissed after a domestic enquiry the correctness of which is very much in challenge. So that aspect was proposed to be tried separately as a preliminary issue before proceeding with the other matters in controversy. This order relates to the validity or otherwise of the domestic enquiry that was conducted against Shri Vanniaperumal.

2. The charge against Shri Vanniaperumal was as follows:

"Standing Order No. 22, Clause (h) riotous or disorderly behaviour on the premises of the estate or any act subversive to discipline in that Sri Vanniaperumal a registered worker on Puthukad Division of this estate is alleged to have committed the following offence:

On 21st March 1980 the Manager, Pallivasal Estate had given permission to conduct a Panchayat at Puthukad Division labour club, of which Sri Vanniaperumal was aware. At about 8.30 p. m. on that day when the panchayat was going on he is alleged to have entered the labour club, used abusive words against the panchayatars and disrupted the panchayat meeting and finally stabbed a temporary worker Sri Kalan with a knife."

This charge was admittedly served on Shri Vanniaperumal and a domestic enquiry was conducted by the then Labour Officer of the Management Company. Shri Vanniaperumal participated in the enquiry throughout. Six witnesses were examined on the side of the Management and two for the workman. The workman also gave a statement before the enquiry officer. Considering the materials collected at the enquiry the Enquiry Officer found Shri Vanniaperumal guilty of the charge and the dismissal followed on its basis.

3. The Management is defending its action by contending that an impartial domestic enquiry was conducted giving all opportunities to the workman to defend himself and the evidence let in was sufficient to prove the guilt beyond any reasonable doubt. The complaint of the union is that there was only a farce of an enquiry without giving reasonable facilities and opportunities to the workman to attempt to establish his innocence. Several attacks are raised against the procedure adopted by the Management and the enquiry officer in the matter of the domestic enquiry. According to the Union the Labour Officer should not have conducted the enquiry as there is a prohibition in doing so. Another objection is that the delinquent was not permitted to have the assistance of a lawyer or some other competent person to defend himself, especially because at least one witness who had proved certain documents gave evidence in English a language foreign to the workman. Yet another objection is that copies of the documents produced for the first time at the domestic enquiry when the first witness was examined were not served on the workman in advance or at the time of the enquiry. There is also a criticism that the misconduct attributed is not even remotely connected with the employment and therefore it cannot be treated as a basis for disciplinary proceedings and punishment.

4. The Enquiry Officer was not examined. It was conceded on behalf of the Union that the enquiry papers can be admitted in evidence even without examination of the Enquiry Officer and the matter heard on the basis of the records available. The file containing the original papers in connection with the domestic enquiry is Ext. M1. Most part of it is in Tamil and the transliteration in English and Malayalam is in a file marked as Ext. M1 (a). It is conceded that Exts. M1 and M1 (a) contain a true account of what had actually transpired at the domestic enquiry.

5. The criticism that the Labour Officer was incompetent to conduct the domestic enquiry is not pressed before me. So I need not consider that objection in detail. Suffice it to say that the enquiry was conducted by a competent person.

6. One serious objection is that the workman who is illiterate was not given the assistance of a competent lawyer or an outsider to have his defence. It is the admitted case that the workman was asked to have the assistance of a co-worker and he refused the same. The argument is that the co-workers are all illiterate and therefore similarly handicapped as the workman in the matter of effective defence at an enquiry and hence no purpose could have been served by engaging a co-worker and that is the reason why a co-worker's services were not utilised. But this is not a case where the workman asked for the assistance of a lawyer or some other outsider. It is also not a case where there was a legally qualified presenting officer on behalf of the Management. When that is the position the complaint that the Enquiry Officer should have volunteered to offer outside help for the workman and the failure amounts to a negation of a valuable right cannot be accepted as genuine. It is also important in this connection to notice that all witnesses except witness No. 1 examined on the side of the

Management were workmen of the same Estate and that they all gave evidence in Tamil. Shri Vanniaperumal had put questions in cross-examination to those witnesses. Ofcourse he did not cross-examine the 1st witness, the Asst. Manager, who gave evidence in English. The records show that the Asst. Manager's evidence was translated to the workman in Tamil and he stated that he has no questions to be asked to that witness. The first witness the Asst. Manager had only hearsay information regarding the incident which was sought to be proved at the enquiry. He was examined as a formal witness to produce and prove the complaints filed by the affected parties. It is the failure to serve copies of those complaints in advance that is the subject matter of the other criticism. But all persons who are said to have preferred those complaints have been examined as witnesses and those documents proved by the Asst. Manager cease to have any importance when the complainants themselves have given evidence in detail. Even if the evidence of the first witness and the documents produced by him are discarded it will not affect the effect of the evidence in any manner. In these state of affairs the fact that the first witness gave evidence in English and the further fact that he had produced those documents without serving copies of the same in advance to the workman will not in any way adversely affect the validity of the domestic enquiry as it had not prejudiced the workman in any way.

7. Though not specifically pleaded it is argued on behalf of the Union that there was a parallel criminal prosecution which ended in acquittal of the workman and that is a ground to say that the departmental proceedings should not have been held or proceeded. The judgment in the case is produced by the workman and the same is marked as Ext. W1. Ext. W1 shows that the case was registered by the Police and charge-sheeted after investigation. The learned Magistrate acquitted the accused as proper evidence was not adduced. Even the complainant was not examined. Before the acquittal as per Ext. W1 the departmental proceedings were initiated and completed. Pendency of the criminal case is no bar for a parallel departmental case. Similarly the fact that the prosecution ended in an acquittal does not mean that the findings in a domestic enquiry should also follow suit.

8. There is no contention for the union that the findings are perverse. The occurrence witness examined on the side of the management had given evidence that shri Vanniaperumal caused obstruction to the panchayat meeting that was in progress in the labour club and finally inflicted a stab injury on Shri Kalan, another worker of the estate. The defence witnesses two in number were examined with intent to show that the incident happened in a different manner. But they did not say anything advantageous to the defence. Shri Vanniaperumal himself in his statement before the enquiry officer after the conclusion of the evidence on either side had admitted that he was in a drunken stage and he waived a knife resulting in the injury on the person of Shri Kalan. Ofcourse he has a case therein that he did so in self defence. But there is only his interested version in support of that case. The entire evidence available is in support of the case that he

voluntarily caused hurt to Shri Kalan after creating disturbance at the meeting of the panchayatdars at the labour club. So the evidence available is sufficient enough to conclude that Shri Vanniaperumal caused a stab injury to Shri Kalan, another worker, at the estate club.

9. Now the Union has a serious case that the incident proved at the enquiry cannot be treated as a basis for a misconduct as per the Standing Orders since it had nothing to do with the employment and the master and servant relationship even in a remote manner. The argument is that the incident took place at the club beyond working hours and that way beyond the purview of the provisions of the Standing Orders applicable. The relevant clause of the Standing Orders forms part of the charge which had been extracted in full earlier. It involves riotous or disorderly behaviour on the premises of the establishment and acts subversive to discipline. The evidence is that the labour club is in the estate and it is maintained as a recreation center for the workers. Occasionally it is used for other matters affecting the interests of the workmen. In the instant case a meeting of the panchayatdars was being held in an attempt to resolve a family dispute in which the workers were interested. Prominent leaders of the workmen are the panchayatdars. Shri Vanniaperumal was the person in charge of opening and closing the club building at the relevant time. He was given written instructions through the panchayatdars by the Manager of the estate to place the club building at the disposal of the panchayatdars beyond the normal club hours on the particular day. The evidence is that even then Sri Vanniaperumal revolted and refused to act according to the instructions and finally caused disturbance, violence and assault. All these happened in the premises of the estate at the club that is maintained by the management for the welfare of the workers. Shri. Vanniaperumal in a way was the custodian of the club building. The manner in which he behaved as is proved in the case amounts to riotous and disorderly behaviour on the premises of the estate and it is also subversive to discipline. So it certainly is a misconduct as per the standing order No. 22.

10. In the result it is found that there was a proper and valid domestic enquiry and that the findings rendered by the Enquiry Officer are correct."

11. The question as to whether Shri Vanniaperumal is entitled to any reliefs in the matter of punishment as per Sec: 11-A of the Industrial Disputes Act was taken up for consideration after the above preliminary order. The learned counsel appearing on behalf of the Union pleaded before me that the incident which is the basis of the misconduct happened beyond working hours in the recreation club and that cannot therefore be treated as a misconduct meriting a punishment. According to the learned counsel Shri Vanniaperumal has to be reinstated with all benefits in the circumstances. But I have already found that Shri Vanniaperumal had committed a misconduct as per the Standing Orders applicable. Therefore this argument is not acceptable. In assessing the appropriate punishment

that has to be awarded we need only look into the gravity of the misconduct proved. What is proved is that Shri Vanniaperumal who was in charge of the Recreation Club which is in the premises of the Estate refused to open it inspite of the directions issued by the Estate Manager and thereafter caused disturbance to the conciliation talks that were in progress and finally caused injuries to another workman by stabbing him with a knife. This is a serious offence affecting the discipline of the Estate and it cannot be treated as anything silly. So there is no question of reinstating Shri Vanniaperumal. However considering the circumstances I feel that dismissal is too harsh and therefore it can be converted into one of discharge. Shri Vanniaperumal will be paid his benefits as though he had been discharged on the date on which the dismissal was intended to take effect. He is awarded that relief and it is held that he is not entitled to any other reliefs.

IV. *Issue No. 4*: Mahalingam should be offered supervisory work with back wages from 23rd April 1980.

The claim of the Union as regards Shri Mahalingam is that he was working as a Supervisor from 11th of November 1976 and that he should have been confirmed on completion of 12 months probation. But the Management confirmed him as a Supervisor only with effect from 1st February 1982. It is alleged that he was denied work as a Supervisor without assigning any reason from 23-4-1980 to 30-1-1981. It is the admitted case that he is continuously working as a Supervisor from 1st of February 1982. The claim is for back wages as though he was continuing as a Supervisor from 1976. But the issue moulded on the basis of the charter of demands is only to the effect that he should have been offered the work of Supervisor from 23-4-1980. So we are only concerned with the matter as is covered by the issue since I have no jurisdiction to enlarge the scope of the issue.

V. The contention of the Management in this regard in its written statement is to the following effect:—

Shri Mahalingam was an ordinary general worker. He was employed as a temporary Supervisor during broken periods according to the availability of vacancy of Supervisors from 11th November 1976 onwards. There were several breaks during which he was reverted back as an ordinary worker. On the basis of fortnightly or monthly agreements he continued as a trainee temporary supervisor till 23rd of April 1980. In the meanwhile the Management took steps to fill up the vacancies in the category of permanent Supervisors. For that matter a written test followed by an interview was conducted. Shri Mahalingam though he passed the test was low in rank and therefore could not immediately be absorbed. His Union raised a dispute concerning the same. The matter was discussed with the Union and a settlement was arrived at on 5th of July 1980 in which it was agreed that he will be absorbed in the next available vacancy as a Supervisor. (He was not reporting for work from 24th of April 1980.) Even then he did not report for duty but left the original Union and joined D.E.W. Union. The President of that Union had a personal discussion concerning the issue

of Shri Mahalingam and it was again agreed by the Management on the 7th of January 1981 to absorb Shri Mahalingam as a probationary Supervisor from 1-2-1981 and the dispute was settled. Accordingly he was absorbed and confirmed as a permanent Supervisor from 1st of February 1982. He is working as such on the basis of the said appointment. He who had not reported for duty from 23rd of April 1980 to 1st of February 1981 is not entitled to wages. He is also not entitled to be considered as a Supervisor from 23rd of April 1980. He is not therefore entitled to any reliefs.

VI. The Union has not adduced any evidence concerning Shri Mahalingam. The Management had produced Exts. M2 to M33 to substantiate its contentions. Exts. M2 to M6, M9 and M10 are orders under which Shri Mahalingam had been appointed in temporary vacancies to act as temporary Supervisor for short periods and ordered on the expiry of the respective periods to do duties of ordinary general worker. This concerns the period 11-11-1976 to 16-6-1977. During that interval Ext. M7 memo was issued to him on 12-5-1977 to show cause why he had not properly performed the duties of a Supervisor. In Ext. M8 which was submitted by him in answer he had expressed regret and undertaken to be more careful in future. Mahalingam's father was a permanent Supervisor and when he was about to retire he submitted a representation before the Management as per Ext. M11 requesting that Shri Mahalingam may be given a permanent place. That was replied to by the Management in Ext. M12 stating that the appointment of the Supervisors is clearly a management prerogative. However the Management had appointed Shri Mahalingam as a temporary trainee Supervisor as per Ext. M13 dated 6-2-1979 for a period of one month with effect from 8-2-1979. Shri Mahalingam is also a signatory to that agreement. The same was renewed from time to time as per Exts M15 and M23 to M28 upto 15-12-1979. In the meanwhile Exts. M17, M19 and M21 show cause notices were issued to him pointing out that his performance as a Supervisor was not satisfactory. Shri Mahalingam had submitted explanations to those show cause notices admitting the irregularites pointed out, but at the same time craving for mercy on the undertaking that he will be more careful in future. It is common case that Shri Mahalingam had continued thereafter to work as Supervisor upto 23-4-1980. The next document available is Ext. M29, a complaint raised before the Management by the Secretary of D.E.W. Union wherein it was said that Shri Mahalingam was denied employment as a Supervisor from 23-4-1980. The Management replied that complaint in Ext. M30 dated 9-5-1980 explaining its stand. It appears that there was some further discussions between the Management and the President of the Union as could be seen from Ext. M31, copy of the letter addressed to the President of the Union by the Management. It is stated therein that as per the personal discussions the Management will absorb Shri Mahalingam as a probationary Supervisor within two months. Thereafter on 21th of January 1981 the Management issued the original of Ext. M32 offering to absorb Shri Mahalingam as a probationary Supervisor from 1-2-1981. Shri Mahalingam was asked to state whether the terms indicated in the original of Ext. M32 were agreeable to him. He had agreed to

those terms as per his acknowledgement signed in Ext. M32. Subsequently the was confirmed as a Supervisor on the expiry of the probation period of one year as per Ext. M33 dated 30-1-1982. Ext. M33 is also signed by Shri Mahalingam. Thus it is evident that the dispute concerning the claim of Shri Mahalingam to be absorbed as a Supervisor had been settled in terms which were acceptable and agreeable to the Union and Shri Mahalingam. Admittedly he was not working from 23rd April 1980 till 1st of February 1981. He was not absorbed as a regular Supervisor before that. The documents show that he was only acting at intervals till then in temporary vacancies. Inthese state of affairs there is no basis for the claim of absorbtion ofShri Mahalingam as a Supervisor from 23rd of April 1980. So Shri Mahalingam is not entitled to the relief claimed.

VII. *Issue No. 2:* M/s. Subbiah and Muniandy—Nursary Division should be offered Supervisory work.

It is admitted before me that Shri Subbiah had already left the services of the Management on settlement of all his dues and that therefore his case as covered by the issue need not be considered. Since Shri Subbiah had already settled his accounts and left the services it is unnecessary to consider his case.

VIII. As regards Shri Muniandy the claim is that he was working as a Supervisor from 13-11-1975 and he should have been confirmed as a Supervisor on the expiry of the probation period of one year as per the P.L.C. settlement. The contention of the Management is that Shri Muniandy had not worked as a Supervisor from 13-11-1975. According to it he had worked as a temporary Supervisor for a very short period in 1977 for which he was paid the wage differential. He was never appointed as a probationary Supervisor and it is the Management's prerogative to make selections of competent Supervisors. Therefore he is not entitled to be absorbed as a Supervisor.

IX. The claim as covered by the issue is only to the effect that Shri Muniandy should be absorbed as a Supervisor. Exts. M34, M35 and M35 show that Shri Muniandy was appointed as a temporary Supervisor only for a short interval in 1977. There is nothing to show that he was absorbed as a probationary Supervisor thereafter or before. It is admitted before me that the post of Supervisor is a selection post and that it is not a promotion post. It is further admitted that regular selections were made by conducting tests and interview. There is nothing to show that Shri Muniandy had qualified himself for appointment by successfully undergoing tests and interviews. Occasional appointment for short intervals to suit the exigencies of service purely on a temporary basis as temporary Supervisor does not give the right to claim permanency in that post. The temporary appointments as revealed by the documents were only for specified periods after which there were reversions. Shri Muniandy had accepted the temporary appointments as could be seen from the documents by signing the appointment orders in token of having agreed to work on purely temporary appointments. So Shri Muniandy is not entitled to be absorbed as a Supervisor on a permanent basis.

X. *Issue No. 3*: Kanthasamy should be offered Watcher's work.

Shri Kanthasamy was a Field Watcher from May 1976 to 1979. He was removed from that position and asked to do the general work. The complaint of the Union is that he should be retained as a Watchman.

XI. The contention of the Management is that there is no particular category as Watchman and the duty of watching in the fields is normally assigned to suitable general workers on payment of a job differential and Shri Kanthasamy who was deputed to work as a Watchman proved himself unsuitable for the job and therefore he was allotted his normal duties as a general worker and hence he cannot claim permanency as a Watchman. There is nothing to show that there is a particular category as Watchman and Shri Kanthasamy was appointed to that post. But it is common case that he was doing the duties of Watchman which carries a job differential. The Management had produced Exts. M40 to M51 from which it can be seen that frequently Shri Kanthasamy had failed to discharge his duties as a Watchman effectively. He was warned on various occasions pointing out specific instances of laches on his part. On all such occasions while admitting his guilt he had promised to be prompt in future. But the promises were not kept. Ultimately the Management noticed that a clandestine connection from the water pipe line belonging to the Management. was being enjoyed by an outsider. It was the duty of Shri Kanthasamy to keep watch against such misuses. In connection with that dereliction in duty he was issued a show cause notice for which also he repeated the usual explanation which was found unsuitable. It was in such circumstances that he was asked to do the normal duties of a general worker instead of the Watchman.. In the absence of anything to show that there was a separate category as Watchman it could not be said that Shri Kanthasamy has a right to continue in that category. There is only one general category from which suitable hands are posted as Watchman. Shri Kanthasamy who has proved himself unsuitable to be an effective Watchman cannot therefore claim that he should be offered that work. So the claim of the Union that Shri Kanthasamy should be offered the post Watchman is not tenable.

XII. In the result an award is passed to the effect that the workmen covered by issues 1 to 3 are not entitled to any reliefs. Issue No. 4 is answered by converting the dismissal of Shri Vanniaperumal to one of discharge directing the Management to pay him dues as though he had been discharged on the date on which he was intended to be dismissed.

Ernakulam,
26-6-1984.

N. SUKUMARAN,
Presiding Officer.

GA 345/SMT. (2)

Appendix

Witness examined on the Management's side:

MW1 I. P. Prem.

Exhibits marked on the Management's side:

Ext. M1 The file relating to the domestic enquiry conducted against Shri Vanniaperumal

" M1(a) True copy of the proceedings of the domestic enquiry and findings with the Tamil portions translated in Malayalam.

" M2 A memo dated 11-11-1976 from the Management to Sri Mahalingam.

" M3 Copy of a memo dated 1-1-1977 do. do.

" M4 A memo dated 13-1-1977 do. do.

" M5 Copy of a memo dated 3-3-1977 do. do.

" M6 A memo dated 19-4-1977 do. do.

" M7 Copy of a memo dated 12-5-1977 do. do.

" M8 Reply of Sri Mahalingam dated 13-5-1977

" M9 A memo dated 18-5-77 from the Management to Sri Mahalingam.

" M10 Copy of a memo dated 16-6-1977 do. do.

Ext. M11 A request in writing in Tamil of Sri. Gopal, father of Sri Mahalingam, for offering supervisor's work to Sri Mahalingam.

" M12 Copy of a memo dated 12-10-1978 from the Management to Sri Gopal.

" M13 Agreement dated 6-2-1979 employing Sri Mahalingam as temporary trainee.

" M14 Copy of a memo dated 13-2-1979 from the Management to Sri Mahalingam.

" M15 Agreement dated 8-3-1979 employing Sri Mahalingam as temporary trainee supervisor.

" M16 Report dated 15-3-1979 of the Asst. Conductor about Sri Mahalingam's work.

" M17 Show cause notice dated 16-3-1979 issued to Sri Mahalingam.

" M18 Reply dated 20-3-1979 of Sri Mahalingam to the show cause notice.

" M19 Copy of a memo dated 20-3-1979 issued to Sri Mahalingam

Ext.	M20	Copy of a letter dated 10-4-1979 from the Management to Sri Mahalingam.
,,	M21	Do. do. dated 3-5-1979.
,,	M22	Do. do. dated 30-5-1979
,,	M23	Agreement dated 22-6-1979 employing Sri Mahalingam as temporary trainee supervisor.
,,	M24	Agreement dated 20-8-1979 employing Sri Mahalingam as temporary trainee supervisor.
,,	M25	Agreement dated 3-9-1979 do. do.
,,	M26	Do. 17-9-1979 do. do.
,,	M27	Do. 15-10-1979 do. do.
,,	M28	Do. 20-11-1979 do. do.
,,	M29	A letter dated 5-5-1980 from the union to the Management
,,	M30	Copy of reply of the Management dated 9-5-1980 to Ext. M29.
,,	M31	Copy of a letter dated 9-1-1981 from the Mannagement to the Union.
,,	M32	Copy of a letter dated 24-1-1981 issued to Sri Mahalingam by the Management.
,,	M33	Do. do. dated 30-1-1982
,,	M34	A memo dated 10-5-1977 issued to 110 Suppiah for temporary supervision work.
,,	M35	A memo dated 10-5-1977 issued to 2011 Muniandy for temporary supervision work.
,,	M36	A memo dated 12-8-1977 issued to 2011 Muniandy and 181 Subramaniam for temporary supervision work.
,,	M37	A letter dated 2-4-1980 from the Union to the Dy. Labour Officer, Munnar with copy to the Management.
,,	M38	A letter dated 9-4-1980 from the Dy. Labour Officer to the Management.
,,	M39	Copy of a letter dated 14-4-1980 from the Management to the Dy. Labour Officer.
,,	M40	Copy of a letter dated 24-8-1977 from the Management to Sri Kandasamy.
,,	M41	Do. do. dated 10-10-1977.
,,	M42	Explanation of Sri Kandasamy to Ext. M1.
,,	M43	Copy of warning letter dated 13-2-1978 issued to Sri Kandasamy.
,,	M44	Copy of a letter dated 16-2-1978 addressed to Sri Kandasamy.

Ext. M45 Copy of a memo dated 7-10-1978 given to Sri Kandasamy.

„ M46 Reply dated 10-10-1978 of Sri Kandasamy to Ext. M45.

„ M47 Copy of show cause notice dated 19-1-1979 issued to Sri Kandasamy.

„ M48 Explanation dated 22-1-1979 of Sri Kandasamy to Ext. M47.

„ M49 Copy of a letter dated 23-1-1979 given to Sri Kandasamy by the Management.

„ M50 A letter dated 1-2-1979 from Sri Kandasamy to the Management.

„ M51 Copy of a letter dated 20-3-1979 from the Management to the Dy. Labour Officer.

Exhibit marked on the Union's side

Ext. W1 Certified copy of the judgement in C.C. 95/80 of the Judicial First Class Magistrate's Court, Devicolam

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Kerala Gazette No. 48 dated 4th December 1984
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1346/84/LBR. *Dated, Trivandrum, 12th October 1984.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Manager, Vagavurai Estate, M/s Tata Tea Ltd., Munnar and the workmen of the above estate represented by the Secretary, Devicolam Estate Workers Union, Munnar, received by Government on 8-10-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

T. Padmavathy Amma,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

(Saturday, the 29th September 1984)

Present:

Shri N. SUKUMARAN, B.SC., B.L.,

Presiding Officer

INDUSTRIAL DISPUTE No. 21 OF 1983

Between

The Manager, Vagavurai Estate, M/s Tata Tea Ltd., Munnar.

And

The workmen of the above estate represented by the Secretary, Devicolam Estate Workers Union, Munnar.

Representations:—

Shri K. V. R. Shenoi, Advocate, M/s Meon & Pai, Advocates, Ernakulam. } For *Management*

Shri K. Damodara Kurup, Advocate, Ernakulam. } For *Union*

AWARD

Dismissal of four workmen of the Vagavurrai Estate, Munnar is the issue referred for adjudication by Government as per G.O. (Rt.) No. 533/83/LBR dated 17-5-1983.

2. The dismissal was after conducting a domestic enquiry the validity of which was tried as a preliminary issue in view of the rival contentions advanced on that aspect. I found as per my order dated 2-6-1984 that there was no valid domestic enquiry. The management in the meanwhile had moved an application for permission to let in fresh evidence in case it is found that the enquiry is not proper. After the pronouncement of the preliminary order the Management was permitted to let in fresh evidence in support of the charges. Evidence was adduced in part when a suggestion for an amicable settlement of the dispute was put forth from both sides. So the case was adjourned to explore the possibility of a settlement and the matter came up today at this camp at Munnar. Then it was agreed that the four workmen can be reinstated on certain conditions. The first of it was that Sri Ramar one of the workmen affected on behalf of the four workmen must tender an apology before open court expressing regret on the unpleasant developments which led to this dispute. Shri Ramar accordingly tendered apology before me. The other agreed conditions are that the workmen are to be reinstated when they report for work on any day on or after 1-10-1984. The Management had agreed to reinstate them accordingly. As regards Shri Ramar there is another agreed condition and that is that he has to work in Naval Division of the Vagavurai Estate for at least six months on the expiry of which the Management will favourably consider the question of retransferring him to Luckham Division. The reinstatement agreed is with continuity of service but without benefit of back wages for the broken period. In view of the settlement an award is passed in terms indicated above.

Dictated to the Confidential Assistant in open court on this the 29th day of September 1984 at Munnar.

N. Sukumaran,
Presiding Officer.

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PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1429/84/LBR. *Dated, Trivandrum, 17th November 1984.*

The award of the Labour Court, Kozhikode in respect of the dispute between (1) The President, Tirur Taluk Arecanut Co-operative Marketing Society Ltd., P.O. Thalakkadathur, Tirur-3, (2) The Managing Director, The Central Arecanut Marketing & Processing Co-operative Ltd., P. B. No. 223, Sahakari Mahal, Mangalore-575001, (3) Sri P. Raman, Pokkanattu Veedu, Thalakkadathur, Tirur-3 and Shri Alungal Bharathan, President, Kerala Trade Union Congress, Pukkayil Bazaar, Tirur-7 received by Government on 2-11-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Labour Court, Kozhikode, Kerala State

(Dated this the 16th day of October, 1984)

Present :

SHRI K. P. BALANARAYANA MARAR, B.A., B.L.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 24/82

Between

1. The President, Tirur Taluk Arecanut Co-operative Marketing Society Ltd., P.O. Thalakkadathur, Tirur-3.
2. The Managing Director, The Central Arecanut Marketing & Processing Co-operative Ltd., P. B. No. 223, Sahakari Mahal, Mangalore-575001.
3. Sbri P. Raman, Pokkanattu Veedu, Thalakkadathur, Tirur-3.

} *Management*

And

Shri Alungal Bharathan, President, Kerala Trade Union Congress, Pukkayil Bazaar, Tirur-7 } *Union*

Representations :

Shri P. M. Padmanabhan, Advocate, Calicut .. For Management No. 1.

Shri B. G. Bhaskar, Advocate, Calicut .. For Management No. 2.

Shri P. S. Girish, Advocate, Calicut .. For Union.

AWARD

1. This industrial dispute between the above parties regarding the non-employment of the 31 workers was referred to this court for adjudication as per G.O.Rt. No. 558/82/LBR dated 20-5-1982. The case was taken on file and notices issued to the parties. They entered appearance and filed statements.

2. Hearing advanced to this date vide order on petition filed on 15-10-1984. Statement filed by union to the effect that the dispute is settled. Statement is recorded and award passed accordingly.

3. This award will come into force 30 days after its publication in the official gazette.

Dated this the 16th day of October, 1984.

K. P. Balanarayana Marar,
Presiding Officer.

Labour Court,
Kozhikode.

Kerala Gazette No. 48 dated 4th December 1984.

PART I

GOVERNMENT OF KERALA

Local Administration and Social Welfare (G) Department

NOTIFICATION

No. 62814/G1/80/LA & SWD. *Dated, Trivandrum, 2nd March* 1984.

The following draft of the Velloor-Mulakkulam Area Development Scheme which the Government of Kerala propose to promulgate in exercise of powers conferred by section 4 of the Travancore Town and Country Planning Act, 1120 (XXI of 1120), is hereby published for the information of all persons likely to be affected thereby as required by rule 11 of the Travancore Town and Country Planning Rules, 1953.

Notice is hereby given that the said draft will be taken up for consideration on or after one month from the date of publication of this notification in the Gazette and that any objection or suggestion which may be received from any person in respect of the said draft before the period specified above will be considered by Government. Objections and suggestions shall be addressed to the Commissioner and Secretary to Government, Local Administration and Social Welfare (G) Department, Secretariat, Trivandrum.

By order of the Governor,

M.S.K. RAMASWAMI,

Commissioner & Secretary.

G. 574(A)

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PART I



GOVERNMENT OF KERALA

Transport (B) Department

ERRATA

G.O. (P) No. 68/84/Tr. D. *Dated, Trivandrum, 29th October* 1984.

In the Notification published under G. O. (P) No. 58/84/Tr. D. dated the 16th August, 1984, as S.R.O. No. 955/84 in the Kerala Gazette Extraordinary No. 732 dated the 16th August, 1984,—

(1) in paragraph 3 of the Supplementary Inter-state Agreement for "406" read "400";

(2) in the entries against serial No. 2 under Annexure III of Appendix B, for "1-15", read "115".

By order of the Governor,

V. A. Augustine,

Additional Secretary to Government.

G. 1778

GOVERNMENT OF KERALA

Law (Legislation Publication) Department

NOTIFICATION

No. 7189/Leg.Pbn.2/84/Law. *Dated, Trivandrum, 8th May* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 26th December, 1983, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 25th December, 1983.

By order of the Governor,

K. SREEDHARAN,

Law Secretary.

THE MINES (AMENDMENT) ACT, 1983

(Central Act 42 of 1983)

AN

ACT

further to amend the Mines Act, 1952

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short tilte and commencement.*—(1) This Act, may be called the Mines (Amendment) Act, 1983.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section* 2.—In the Mines Act, 1952 (35 of 1952) (hereinafter referred to as the principal Act), in section 2, in sub-section (1),—

(i) *clause* (a) shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:—

'(c) "agent", when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or of any part thereof;';

(iii) for clause (e), the following clause shall be substituted, namely:—

'(e) "Committee" means a committee constituted under section 12;';

(iv) for clause (h), the following clause shall be substituted, namely:—

'(h) a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not—

(i) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of despatch and of gathering sand and transport thereof to the mine);

(ii) in operations or services relating to the Development of the mine including construction of plan therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;

(iii) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(iv) in operations, within the premises of the mine, of loading for despatch of minerals;

(v) in any office of the mine;

(vi) in any welfare, health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of the mine excluding residential area; or

(vii) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;';

(v) clause (ii) shall be omitted;

(vi) for clause (j), the following clause shall be substituted, namely:—

'(j) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oil fields;

(ii) all shafts, in or adjacent to and belonging to a mines whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;

(vii) all protective works being carried out in or adjacent to a mine;

(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with the mine or a number of mines under the same management;

(ix) all power stations, transformer sub-stations, convertor stations, rectifier stations and accumulator, storage stations for supplying electricity soley or mainly for the purpose of working the mine or a number of mines under the same management ;

(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting dressing or preparation for sale of minerals or of coke is being carried on;';

(vii) clause (jjj) shall be omitted;

(viii) in clause (l),—

(a) the words "and in the case of a mine owned by a company, the business whereof is being carried on by a managing agent, such managing agent" shall be omitted;

(b) for the words "any contractor", the words "any contractor or sub-lessee" shall be subsituted;

(ix) for clause (n), the following clause shall be substituted namely:—

'(n) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956) and who is enrolled on a State medical register as defined in clause (k) of that section;';

(x) after clause (p), the following clause shall be inserted, namely:—

'(pp) "reportable injury" means any injury other than a serious bodily injury which involves or in all probability will involve, the enforced absence of the injured person from work for a period of seventy-two hours or more;';

(xi) for clauses (q) and (r), the following clauses shall be substituted, namely:—

'(q) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the

permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(r) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector or an Inspector.'

3. *Amendment of section* 3.— In section 3 of the principal Act, in sub-section (1)—

(a) in the opening portion, for the words and figures "sections 7,8,9,44, 45 and 46", the words and figures "sections 7, 8, 9, 40, 45, and 46" shall be substituted;

(b) in clause (b),—

(i) after the words "building stone,", the word "slate," shall be inserted;

(ii) after the words "fullers earth", the words "marl, chalk" shall be inserted.

4. *Amendment of section* 5.— In section 5 of the principal Act, in the proviso to subsection (3), for the word and figures "section 22", the words, figures and letter "section 22 or section 22A" shall be substituted.

5. *Amendment of section* 7.—In section 7 of the principal Act, in sub-section (2),—

(a) for the words and figures "Code of Criminal Procedure, 1898" (5 of 1898), the words and figures "Code of Criminal Procedure 1973" (2 of 1974) shall be substituted;

(b) for the word and figure "section 98", the word and figures "section 94" shall be substituted.

6. *Amendment of section 8*—In section 8 of the principal Act,—

(a) after the words "levelling or measuring any mine", the words "or any output therefrom" shall be inserted.

(b) after the words "level or measure the mine or any part thereof", the words "or any output therefrom" shall be inserted;

7. *Insertion of new section 9A*—After section 9 of the principal Act, the following section shall be inserted, namely:—

"9 A *Facilities to be provided for occupational Health survey.*—(1) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant

and machinery, for the collection of samples and other data pertaining to the survey and for the transport and examination of any person employed in the mine chosen for the survey), to such Inspector or officer.

(2) Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (1) shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.

(3) The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however that any overtime shall be paid at the ordinary rate of wages.

Explanation.—For the purposes of this sub-section, "ordinary rate of wages" means the basic wages *plus* any dearness allowance and underground allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and edible oils as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus (other than a bonus given as incentive for production) or any compensation accruing through the provision of amenities such as free housing, free supply of coal, medical and educational facilities, sickness allowance, supply of kerosene oil, baskets, tools and uniforms.

(4) Any person who, on examination under sub-section (2), is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:

Provided that where no such alternative employment is immediately available, such person shall be paid by the owner, agent and manager disability allowance determined in accordance with the rates prescribed in this behalf:

Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf.

(6) The rates under the provisos to sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors.".

8. *Amendment of section* 10.—In section 10 of the principal Act,—

(a) in sub-section (1), after the word "inspection", the words "or survey" and after the word and figure "section 8", the words, figure and letter "or section 9A" shall be inserted ;

(b) in sub-section (2),—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) a Committee or court of inquiry constituted or appointed under section 12 or section 24, as the case may be;";

(ii) for clause (e), the following clauses shall be substituted, namely:—

"(e) the Controller, Indian Bureau of Mines;

(f) any registered or recognised trade union;

(g) such other officer, authority or organisation as may be specified in this behalf by the Central Governmet.".

9. *Amendment of section* 11.—In section 11 of the principal Act, in sub-section (4), clause (a) and sub-clause (ii) of clause (c) shall be omitted.

10. *Substitution of new sections for sections* 12, 13 *and* 14.—For the heading "MINING BOARDS AND COMMITTEES", occurring immediately before section 12 of the principal Act, and for sections 12, 13 and 14 of the principal Act, the following heading and sections shall be substituted, namely:—

"Committees

12. *Committees.*—(1) The Central Government shall, with effect from such date as that Government may, by notification in the Official Gazette, specify in this behalf, constitute for the purposes of this Act, a Committee consisting of—

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, appointed by the Central Government to act as Chairman;

(b) the Chief Inspector of Mines;

(c) two person to represent the interests of miners appointed by the Central Government ;

(d) two persons to represent the interests of owners of mines appointed by the Central Government ;

(e) two qualified mining engineers not directly employed in the mining industry, appointed by the Central Government:

Provided that one at least of the persons appointed under clause (c) shall be for representing the interests of workers in coal mines and one at least of the persons appointed under clause (d) shall be for representing the interests of owners of coal mines.

(2) Without prejudice to the generality of sub-section (1), the Central Government may constitute one or more Committee to deal with specific matters relating to any part of the territories to which this Act extends or to a mine or a group of mines and may appoint members thereof and the provisions of sub-section (1) (except the provisio thereto) shall apply for the constitution of any Committee under this sub-section as they apply for the constitution of a Committee under that sub-section.

(3) No act or proceeding of a Committee shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

13. *Functions of the Committee.*—(1) The Committee constituted under sub-section (1) of section 12 shall—

(a) consider proposals for making rules and regulations under this Act and make appropriate recommendations to the Central Government ;

(b) enquire into such accidents or other matters as may be referred to it by the Central Government from time to time and make reports thereon ; and

(c) subject to the provisions of sub-section (2), hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws thereunder, as are required to be referred to it by this Act or as may be prescribed.

(2) The Chief Inspector shall not take part in the proceedings of the Committee with respect to any appeal or objection against an order or notice made or issued by him or act in relation to any matter pertaining to such appeal or objection as a member of the Committee.

14. *Powers etc., of the Committees.*—(1) A Committee constituted under section 12 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purposes of discharging its functions under this Act.

(2) A Committee constituted under section 12 shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

(a) discovery and inspection ;

(b) enforcing the attendance of any person and examining him on oath ;

(c) compelling the production of documents ; and

(d) such other matters as may be prescribed.".

11. *Amendment of section* 15.—In section 15 of the principal Act, for the words and figures "a Mining Board constituted under section 12, or by a Committee appointed under section 13", the words and figures "a Committee constituted under section 12" shall be substituted.

12. *Amendment of section* 16.—In section 16 of the principal Act, in sub-section (1), for the word "Director", the word "Controller" shall be substituted.

13. *Substitution of new sections for sections 17 and 18.*—For sections 17 and 18 of the principal Act, the following sections shall be substituted, namely:—

"17. *Managers.*—(1) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have the prescribed qualifications and the owner or agent of every mine shall appoint a person having such qualifications to be the manager:

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(2) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(3) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

18. *Duties and responsibilities of owners, agents and managers.*—(1) The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder.

(2) The responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of section 58 shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(3) If the carrying out of any instructions given under sub-section (2) or given otherwise than through the manager under sub-section (3) of section 17, results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provisions concerned.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.

(5) In the event of any contravention by any person whosoever of any of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention:—

(i) the official or officials appointed to perform duties of Supervision in respect of the provisions contravened;

(ii) the manager of the mine;

(iii) the owner and agent of the mine;

(iv) the person appointed, if any, to carry out the responsibility under sub-section (2):

Provided that any of the persons aforesaid may not be proceeded against if it appears on inquiry and investigation, that he is not *prima facie* liable.

(6) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under sub-section (2) has been appointed.".

14. *Amendment of section* 19.—In section 19 of the principal Act, in sub-section (2), for the words "twenty feet", the Words "six metres" shall be substituted.

15. *Amendment of section* 22.—In section 22 of the principal Act,—

(a) in sub-section (3), for the words "until the danger is removed", the words "until he is satisfied that the danger is removed" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3*A*) Every person whose employment is prohibited under sub-section (1*A*) or sub-section (3) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited.";

(c) in sub-section (6), for the words "which shall refer", the words "which shall, ordinarily within a period of two months from the date of receipt of the objection, refer" shall be substituted;

(d) in sub-section (7), in the proviso, for the word "requisition", the word "notice" shall be substituted.

16. *Insertion of new section* 22A.—After section 22 of the principal Act, the following section shall be inserted, namely:—

"22A. *Power to prohibit employment in certain cases*.—(1) Where in respect of any matter relating to safety for which express provision is made by or under this Act, the owner, agent or manager of a mine fails to comply with such provisions, the Chief Inspector may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter.

(2) Where the owner, agent or manager fails to comply with the terms of a notice given under sub-section (1) within the period specified in such notice or, as the case may be, within the extended period of time specified under that sub-section, the Chief Inspector may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice.

(3) Every person whose employment is prohibited under sub-section (2), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-section (2).

(4) The provisions of sub-sections (5), (6), and (7) of section 22 shall apply in relation to a notice issued under sub-section (1) or an order made under sub-section (2) of this section as they apply in relation to a notice under sub-section (1) or an order under sub-section (1A) of that section.",

17. *Amendment of section 23*.—In section 23 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1*A*) Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner, agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.";

(b) for sub-section (3), the following sub-section shall be Substituted, namely:—

"(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (1) and (1*A*) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1) or sub-section (1A), as the case may be.";

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Whenever there occurs in or about a mine an accident causing loss of life or serious bodly injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (1) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine :

Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident.".

18. *Amendment of section 27*.—In section 27 of the principal Act, for the word and figures "section 13" the word and figures "section 12" shall be substituted.

19. *Amendment of section 33*.—In section 33 of the principal Act. for sub-sections (2) and (3), the following sud-section shall be substituted, namely:—

'(2) Where any person employed in a mine is paid on piece-rate basis, the time-rate shall be taken as equivalent to the daily average of his full time earnings for the days on which he actually worked during the week immediately preceding the week in which

overtime work has been done, exclusive of any overtime, and such time-rate shall be deemed to be the ordinary rate of wages of such person:

Provided that if such person has not worked in the preceding week on the same or identical job, the time-rate shall be based on the average for the days he has worked in the same week excluding the overtime or on the daily average of his earnings in any preceding week, whichever is higher.

Explanation.—For the purposes of this Section, "ordinary rate of wages" shall have the same meaning as in the Explanation to sub-section (3) of section 9A.'.

20. *Amendment of section* 38.—In section 38 of the principal Act, in sub-section (1), after the words and figures "subject to the provisions of section 22", the words, figures and letter "and section 22A" shall be inserted.

21. *Amendment of section* 39.—In section 39 of the principal Act, in the opening portion, for the words "Save in respect of adolescents, the Central Government", the words "The Central Government" shall be substituted.

22. *Substitution of new section for section* 40.—For section 40 of the principal Act, the following section shall be substituted, namely:—

'40. *Employment of persons below eighteen years of age.*—(1) After the commencement of the Mines (Amendment) Act, 1983, no person below eighteen years of age shall be allowed to work in any mine or part thereof.

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager:

Provided that in the case of trainees other than apprentices, prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

Explanation.—In this section and in section 43, "apprentice" means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961 (52 of 1961).'

23. *Omission of sections* 41 *and* 42.—Sections 41 and 42 of the principal Act shall be omitted.

24. *Substitution of new section for section* 43.—For section 43 of the principal Act, the following section shall be substituted, namely:—

"43. *Power to require medical examination.*—(1) Where an Inspector is of opinion that any person employed in a mine otherwise than as an apprentice or other trainee is not an adult or that any

person employed in a mine as an apprentice or other trainee is either below sixteen years of age or is no longer fit to work, the Inspector may serve on the manager of the mine a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been certified that he is an adult or, if such person is an apprentice or trainee, that he is not below sixteen years of age and is fit to work.

(2) Every certificate granted by a certifying surgeon on a reference under sub-section (1), shall, for the purpose of this Act, be conclusive evidence of the matters referred therein.".

25. *Omission of section* 44.—Section 44 of the principal Act shall be omitted.

26. *Substitutions of new section for section* 45.—For section 45 of the principal Act, the following section shall be substituted, namely:—

"45. *Prohibition of the presence of persons below eighteen years of age in a mine.*—Subject to the provisions of subsection (2) of section 40, after such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on".

27. *Amendment of section* 48.—In section 48 of the principal Act, in subsection (1), clause (*d*) shall be omitted.

28. *Amendment of section* 49.—In section 49 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that if such award, agreement or contract of service, provides for a longer annual leave with wages than that provided in this Chapter, the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service, but leave shall be regulated in accordance with the provisions of sections 50 to 56 (both inclusive) with respect to matters not provided for in such award, agreement or contract of service.".

29. *Amendment of section* 52.—In section 52 of the principal Act,—

(*a*) in sub-section (1), in clause (*a*), for the words "sixteen days" the words "fifteen days" shall be substituted;

(*b*) after sub-section (9) and before the *Explanation*, the following subsection shall be inserted, namely:—

"(10) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case

may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in subsection (1), if,—

(*a*) in the case of a person employed below ground in a mine, he has put in attendance for not less than one-half of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death; and

(*b*) in any other case, he has put in attendance for not less than two-thirds of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death,

and payment of such wages shall be made by the owner, agent or manager of the mine at the rate specified in section 53. where the person is discharged or dismissed from service or quits employment or is superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.';

(*c*) in the *Explanation*, for the words, brackets and figures "sub-sections (1) and (3)", the words, brackets and figures "sub-section (1), (3) and (10)" shall be substituted.

30. *Amendment of section* 57.—In section 57 of the principal Act,—

(*a*) in clause (*j*), the words "adolescents and" shall be omitted;

(*b*) in clause (*q*); for the words "for providing for the safety of persons present on haulage roads", the words "for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads" shall be substituted;

(*c*) in clause (*u*), for the words "for prescribing the plans, and sections and field notes connected therewith, to be kept by owners, agents and managers of mines", the words "for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field notes connected therewith to be kept by them" shall be substituted;

(*d*) in clause (*v*), the words "for dealing effectively with the situation" shall be inserted at the end;

(*e*) in clause (*x*), for the words "fifty yards", the words "forty-five metres" shall be substituted.

31. *Amendment of section* 58.—In section 58 of the principal Act,—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) for providing the term of office and other conditions of service of, and the manner of filling vacancies among, the members

of a Committee and for regulating the procedure to be followed by a Committee for transacting its business;";

(*b*) in clause (*c*), after the words "connected with the enquiry", the words "in the same manner as an arrear of land revenue" shall be inserted;

(*c*) after clause (*c*), the following clause shall be inserted, namely:—

"(*cc*) for providing for inspection of mines to be carried out on behalf of the persons employed therein by a technical expert (not less than an overman in status), the facilities therefor, the frequency at which and the manner in which such inspections are to be carried out and the manner in which reports of such inspections are to be made;";

(*d*) clause (*k*) shall be omitted;

(*e*) in clause (*u*), for the words "six pies per ton", the words "twenty-five paise per tonne" shall be substituted;

"(*r*) for requiring the establishment of rescue stations for specified mines or groups of specified mines or for all mines in a specified area and for prescribing how and by whom such stations shall be established;

(*s*) for providing for the management of rescue stations;

(*sa*) for providing for the standards of physical fitness and other qualifications of the persons constituting rescue brigades;

(*sb*) prescribing the places of residence of the persons constituting rescue brigades;";

(*f*) in clause (*t*), the word "central" shall be omitted;

(*g*) for clause (*u*), the following clause shall be substituted, namely:—

"(*u*) for providing for the levy and collection of a duty of excise (at a rate not exceeding twenty-five paise per tonne) on coke and coal produced in and despatched from mines specified under clause (*r*), the creation of a rescue stations fund for such mines, the crediting to such fund of such sums of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from out of the proceeds of such cess credited to the Consolidated Fund of India, the manner in which the money from such fund shall be utilised and the administration of such fund;";

(*h*) in clause (*v*), the words "and for the terms and conditions of service of persons trained in rescue work employed in mines", and the word "and" occurring at the end, shall be omitted;

(i) after clause (v), the following clause shall be inserted, namely:—

"(vv) for providing for the constitution of safety Committees for specified mine or groups of specified mines or for all mines in a specified area for promoting safety and for laying down the composition, manner of formation and functions of such safety Committees, and;".

32. *Amendment of section* 59.—In section 59 of the principal Act,—

(a) for sub section (4), the following subsection shall be substituted, namely:—

"(4) No regulation or rule shall be made unless the draft thereof has been referred to the Committee constituted under subsection (1) of section 12 and unless that Committee has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.";

(b) sub section (7) shall be omitted.

33. *Amendment of section* 60.—In section 60 of the principal Act,—

(a) for the words "Mining Boards", the words "the Committee constituted under subsection (1) of section 12". shall be substituted;

(b) in the proviso, after the words "so made", the words "shall be sent to the said Committee for information and" shall be inserted.

34. *Amendment of section* 61.—In section 61 of the principal Act,—

(a) in subsection (1), for the words "for the control and guidance of the persons acting in the management of, or employed in, the mine", the words "governing the use of any particular machinery or the adoption of a particular method of working in the mine" shall be substituted ;

(b) in subsection (3), for the words "Mining Board or, where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf", the words "Committee constituted under sub-section (1) of section 12" shall be substituted;

(c) in subsection (4), in clause (a), for the words "Mining Board or such officer or authority as aforesaid", the words "Committee constituted under subsection (1) of section 12" shall be substituted.

35. *Insertion of new section* 61A.—After section 61 of the principal Act, the following section shall be inserted, namely:—

"61A. *Laying of regulations, rules and bye-laws before Parliament.*—Every regulation made under section 57, every rule made under section 58 and every bye-law made under section 61 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one

session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.".

36. *Amendment of section* 65.—In section 65 of the principal Act, for the word and figures "section 40", the word and figures "section 43" shall be substituted.

37. *Substitution of new section for section* 68.—For section 68 of the principal Act, the following section shall be substituted, namely:—

"68. *Penalty for employment of persons below eighteen years of age.*—If a person below eighteen years of age is employed in a mine in contravention of section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.".

38. *Amendment of section* 72B.—In section 72B of the principal Act,—

(*a*) after the word and figures "section 22", the words, brackets, figures and letter "or under sub-section (2) of section 22A" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine shall not be less than two thousand rupees.".

39. *Amendment of section* 72C.—In section 72C of the principal Act, in sub-section (1),—

(*a*) after the word and figures "section 22", the words, brackets, figures and letter "or under subsection (2) of section 22A" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine, in the case of a contravention referred to in clause (*a*), shall not be less than three thousand rupees.".

40. *Amendment of section* 75.—In section 75 of the principal Act, in the proviso, for the words "Provided that,", the words "Provided further that" shall be substituted, and before the proviso as so amended the following proviso shall be inserted, namely:— .

"Provided that the Chief Inspector or the district magistrate or the Inspector as so authorised shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence.".

41. *Amendment of section* 76.—In section 76 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

(*a*) in the case of a firm, any of its partners or managers;

(*b*) in the case of an association any of its members or managers;

(*c*) in the case of a company, any of its directors or managers, who is resident, in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, member, director or manager, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the owner of the mine for the purpose of this Act unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or manager, as the case may be, is received by the Chief Inspector.

Explanation.—Where a firm, association or company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this proviso in relation to different establishments or branches or units and the person so nominated shall, with respect only to the establishment, branch or unit in relation to which he has been nominated, be deemed to be the owner of the mine.".

42. *Amendment of section* 79.—In section 79 of the principal Act,—

(*a*) after clause (*ii*), the following clause shall be inserted, namely:—

"(*iia*) in any case in which the accused is or was a public servant and previous sanction of the Central Government or of the State Government or of any other authority is necessary for taking cognizance of the offence under any law for the time being in force, within three months of the date on which such sanction is received by the Chief Inspector, or";

(*b*) in clause (*iii*), for the words "six months", the words "one year" shall be substituted.

43. *Amendment of section* 80.—In section 80 of the principal Act, for the words "presidency magistrate or magistrate of the first class", the words "Metropolitan Magistrate or Judicial Magistrate of the first class" shall be substituted.

44. *Omission of Section* 80*A*.—Section 80A of the principal Act shall be omitted.

45. *Amendment of section* 81.—In section 81 of the principal Act, in sub-sections (1) and (2), the words "a Mining Board or" shall be omitted.

46. *Amendment of Section* 83.—In section 83 of the principal Act,—

(*a*) in sub-section (1),—

(*i*) for the words "all or any of the provisions of this Act", the words "all or any of the provisions of this Act or the regulations, rules or bye-laws" shall be substituted;

(*ii*) in the proviso, for the word and figures "section 45", the words and figures "sections 40 and 45" shall be substituted;

(*b*) in sub-section (2), for the words "regulations or rules under this Act", the words "regulations, rules or bye-laws" shall be substituted.

47. *Amendment of Section* 84.—Section 84 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) The Chief Inspector may for reasons to be recorded in writing, reverse or modify any order passed by him under this Act or under any regulation, rule or bye-law.

(3) No order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation.".

48. *Insertion of new sections* 85*B and* 85*C*.—After section 85A of the principal Act, the following sections shall be inserted, namely:—

"85B. *Signing of returns, notices, etc.*—All returns and notices required to be furnished or given or communications sent by or on behalf of the owner of a mine in connection with the provisions of this Act or any regulation, rule, bye-law or any order made thereunder shall be signed by the owner, agent or manager of the mine or by any person to whom power in this behalf has been delegated by the owner by a power of attorney.

85C. *No fee or charge to be realised for facilities and conveniences.*—No fee or charge shall be realised from any person employed in a mine in respect of any protective arrangements or facilities to be provided, or any equipment or appliances to be supplied under the provisions of this Act.".

49. *Transitory provision.*—(1) As from the date of constitution of the Committee under sub-section (1) of section 12 of the principal Act as amended by this Act—

(*i*) any Mining Board constituted under section 12 of the principal Act and functioning as such on the aforesaid date shall stand dissolved ;

(*ii*) the Chairman and members of any such Board, who on the aforesaid date are members of that Mining Board shall cease to hold office as such ;

(*iii*) all proceedings pending on the aforesaid date in any Mining Board shall stand transferred to the said Committee which shall deal with them as if they had been pending therein.

(2) Anything done or any action taken before the aforesaid date by any Mining Board shall, so far as it is not inconsistent with any of the provisions of the principal Act as amended by this Act, be as valid and effective as if it had been done or taken by the Committee.

കേരള സർക്കാർ

നിയമ (നിയമ നിർമ്മാണം–സി) വകുപ്പ്

വിജ്ഞാപനം

നമ്പർ 10442/ലെഗ്. സി1/84/ലാ. തിരുവനന്തപുരം, 1984 ജൂലൈ 28/1906 ശ്രാവണം 6.

1984 ജൂലൈ 28-ാം തീയതി ഗവർണ്ണർ വിളംബരപ്പെടുത്തിയ താഴെ പറയുന്ന ഓർഡിനൻസ്, പൊതുജനങ്ങളുടെ അറിവിനായി ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തുന്നു.

ഗവർണ്ണറുടെ ഉത്തരവുപ്രകാരം,
കെ. ശ്രീധരൻ,
നിയമവകുപ്പ് സെക്രട്ടറി.

1984-ലെ 56-ാം നമ്പർ ഓർഡിനൻസ്

1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ്

ഇൻഡ്യൻ റിപ്പബ്ലിക്കിന്റെ മുപ്പത്തിയഞ്ചാം സംവൽസരത്തിൽ കേരള ഗവർണ്ണർ വിളംബരപ്പെടുത്തിയത്.

1977-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ആക്റ്റ് ഭേദഗതി ചെയ്യുന്നതിനുള്ള ഒരു ഓർഡിനൻസ്.

പീഠിക.—1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ് (1984-ലെ 16) 1984 ഫെബ്രുവരി 15-ാം തീയതി കേരള ഗവർണ്ണർ വിളംബരപ്പെടുത്തിയിരുന്നതിനാലും;

1984 മാർച്ച് 2-ാം തീയതി ആരംഭിച്ച് 1984 മാർച്ച് 27-ാം തീയതി അവസാനിച്ച കേരള സംസ്ഥാന നിയമസഭയുടെ സമ്മേളനകാലത്ത് പ്രസ്തുത ഓർഡിനൻസിനുപകരം നിയമസഭയുടെ ഒരു ആക്റ്റ് കൊണ്ടു വരുന്നതിനുള്ള ഒരു ബിൽ കേരള സംസ്ഥാന നിയമസഭയിൽ അവതരിപ്പിക്കുന്നതിനും പാസാക്കുന്നതിനും കഴിയാതിരുന്നതിനാലും;

പ്രസ്തുത ഓർഡിനൻസിലെ വ്യവസ്ഥകൾ നിലനിറുത്തുന്നതിനു വേണ്ടി 1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ് (1984-ലെ 37) കേരള ഗവർണ്ണർ 1984 ഏപ്രിൽ 13-ാം തീയതി വിളംബരപ്പെടുത്തിയിരുന്നതിനാലും;

1984 ജൂൺ 18-ാം തീയതി ആരംഭിച്ച് 1984 ജൂലൈ 27-ാം തീയതി അവസാനിച്ച കേരള സംസ്ഥാന നിയമസഭയുടെ സമ്മേളനക്കാലത്ത് 1984-ലെ 37-ാം ഓർഡിനൻസിനുപകരം നിയമസഭയുടെ ഒരു ആക്റ്റ് കൊണ്ടുവരുന്നതിനുള്ള ഒരു ബിൽ കേരള സംസ്ഥാന നിയമസഭയിൽ അവതരിപ്പിക്കുന്നതിനും പാസാക്കുന്നതിനും കഴിയാതിരുന്നതിനാലും;

ഇൻഡ്യൻ ഭരണഘടന 213-ാം അനുച്ഛേദം (2)-ാം ഖണ്ഡം (എ) എന്ന ഉപഖണ്ഡപ്രകാരം, 1984-ലെ 37-ാം ഓർഡിനൻസിന്, 1984 ജൂലൈ 30-ാം തീയതി മുതൽ പ്രാബല്യമില്ലാതാകുമെന്നതിനാലും;

ആ ഓർഡിനൻസിലെ വ്യവസ്ഥകൾ നിലനിറുത്തിയില്ലെങ്കിൽ വൈഷമ്യങ്ങൾ ഉണ്ടാകുമെന്നുള്ളതിനാലും;

കേരള സംസ്ഥാന നിയമസഭ സമ്മേളനത്തിലല്ലാത്തതിനാലും, സത്വര നടപടി എടുക്കേണ്ടത് ആവശ്യമാകുന്ന സാഹചര്യങ്ങൾ നിലവിലുണ്ടെന്ന് കേരള ഗവർണ്ണർക്ക് ബോദ്ധ്യം വന്നിരിക്കുന്നതിനാലും;

ഇൻഡ്യൻ ഭരണഘടന 213-ാം അനുച്ഛേദം (1)-ാം ഖണ്ഡത്തിന്റെ ...ത നിബന്ധനയനുസരിച്ച് രാഷ്ട്രപതിയുടെ നിർദ്ദേശങ്ങൾ ...ച്ചിട്ടുള്ളതിനാലും;

ഇപ്പോൾ, അതിനാൽ, ഇൻഡ്യൻ ഭരണഘടന 213-ാം അനുച്ഛേദം (1)-ാം ഖണ്ഡംമൂലം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള ഗവർണ്ണർ താഴെപ്പറയുന്ന ഓർഡിനൻസ് വിളംബരപ്പെടുത്തുന്നു:—

1. ചുരുക്കപ്പേരും ആരംഭവും.— (1) ഈ ഓർഡിനൻസിന് 1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ് എന്നു പേർ പറയാം.

(2) ഇത് 1982 ഏപ്രിൽ 1-ാം തീയതി പ്രാബല്യത്തിൽ വന്നതായി കരുതേണ്ടതാണ്.

2. 1977-ലെ 19-ാം ആക്റ്റ് താൽക്കാലികമായി ഭേദഗതി ചെയ്യണമെന്ന്.— ഈ ഓർഡിനൻസ് പ്രവർത്തനത്തിലിരിക്കുന്ന കാലത്ത്, 1977-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ആക്റ്റിന് (1977-ലെ 19) (ഇതിനുശേഷം പ്രധാന ആക്റ്റ് എന്നാണ് പരാമർശിക്കപ്പെടുക), 3-ാം വകുപ്പിൽ പറഞ്ഞിട്ടുള്ള ഭേദഗതിക്ക് വിധേയമായി പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

3. 3-ാം വകുപ്പിന്റെ ഭേദഗതി.—പ്രധാന ആക്റ്റ് 3-ാം വകുപ്പിൽ, (6)-ാം ഉപവകുപ്പിന്റെ ക്ലിപ്ത നിബന്ധനയിൽ, "അഞ്ചുവർഷത്തിൽ" എന്ന വാക്കുകൾക്കുപകരം "പത്തുവർഷത്തിൽ" എന്ന വാക്കുകൾ ചേർക്കേണ്ടതാണ്.

4. സാധൂകരണം.—പ്രധാന ആക്റ്റിലോ, തൽസമയം പ്രാബല്യത്തിലുള്ള മറേറതെങ്കിലും നിയമത്തിലോ എന്തുതന്നെ അടങ്ങിയിരുന്നാലും 1980 ഏപ്രിൽ 21-ാം തീയതിയിലെ 284-ാം നമ്പർ കേരള അസാധാരണ ഗസററിൽ പ്രസിദ്ധപ്പെടുത്തിയിട്ടുള്ള 1980 ഏപ്രിൽ 21-ാം തീയതിയിലെ 5895/എ3/80/എച്ച്. എഡ്യുക്കേഷൻ എന്ന നമ്പർ വിജ്ഞാപനം വഴി പ്രധാന ആക്റ്റ് 3-ാം വകുപ്പുപ്രകാരം നിയമിക്കപ്പെട്ട കൺട്രോൾ ബോർഡിലെ അംഗങ്ങളുടെ, 1982 ഏപ്രിൽ 20-ാം തീയതി അവസാനിച്ച ഉദ്യോഗ കാലാവധി, ഈ ഓർഡിനൻസുമൂലം ഭേദഗതി ചെയ്തപ്രകാരമുള്ള പ്രസ്തുത വകുപ്പ് (6)-ാം ഉപവകുപ്പിന്റെ ക്ലിപ്ത നിബന്ധനപ്രകാരമുള്ള വിജ്ഞാപനംവഴി

1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ് (1984-ലെ 16) ഗസററിൽ പ്രസിദ്ധപ്പെടുത്തിയ തീയതി വരെയും ആ തീയതി ഉൾപ്പെടെയും നീട്ടിയതായി കരുതപ്പെടേണ്ടതും, അതനുസരിച്ച് പ്രധാന ആക്ററുമൂലമോ അതുപ്രകാരമോ നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിക്കാനും കൃത്യങ്ങൾ നിർവഹിക്കാനും ഉദ്ദേശിച്ചുകൊണ്ട് സർക്കാരോ പ്രസ്തുത കൺട്രോൾ ബോർഡോ അഥവാ മററതെങ്കിലും ആളോ, അധികാരസ്ഥാനമോ ചെയ്ത ഏതെങ്കിലും കാര്യമോ അഥവാ എടുത്ത ഏതെങ്കിലും നടപടിയോ മേൽപ്പറഞ്ഞ കൺട്രോൾ ബോർഡിലെ അംഗങ്ങളുടെ ഉദ്യോഗ കാലാവധി പ്രസ്തുത തീയതിയിൽ അവസാനിച്ചു എന്ന കാരണത്താൽ മാത്രം അസാധുവാണെന്ന് കരുതാൻ പാടില്ലാത്തതും എപ്പോഴെങ്കിലും അസാധുവായിരുന്നതായി കരുതാൻ പാടില്ലാത്തതുമാകുന്നു.

5. റദ്ദാക്കലും ഒഴിവാക്കലും.—(1) 1984-ലെ കേരള ഗ്രന്ഥശാലാ സംഘം (മാനേജ്മെന്റ് ഏറ്റെടുക്കൽ) ഭേദഗതി ഓർഡിനൻസ് (1984-ലെ 37) ഇതിനാൽ റദ്ദാക്കിയിരിക്കുന്നു.

(2) അങ്ങനെ റദ്ദാക്കിയിരുന്നാൽകൂടി, പ്രസ്തുത ഓർഡിനൻസുമൂലം ഭേദഗതി ചെയ്ത പ്രകാരമുള്ള പ്രധാന ആക്ററുപ്രകാരം ചെയ്തതോ അഥവാ ചെയ്തതായി കരുതപ്പെട്ടതോ ആയ ഏതെങ്കിലും കാര്യമോ അഥവാ എടുത്തതോ അഥവാ എടുത്തതായി കരുതപ്പെട്ടതോ ആയ ഏതെങ്കിലും നടപടിയോ ഈ ഓർഡിനൻസുമൂലം ഭേദഗതി ചെയ്ത പ്രകാരമുള്ള പ്രധാന ആക്ററുപ്രകാരം ചെയ്തതായോ എടുത്തതായോ കരുതേണ്ടതാണ്.

പി. രാമചന്ദ്രൻ,
ഗവർണ്ണർ.

(ശരിത്തർജ്ജമ)

എ. പി. പെരുമാൾ,
നിയമവകുപ്പ് അഡീഷണൽ സെക്രട്ടറി.

കേരള സർക്കാർ

കൃഷി (ഇൻസ്റ്റിറ്റ്യൂഷണൽ ഫൈനാൻസ് എ) വകുപ്പ്

വിജ്ഞാപനം

നമ്പർ 76907/ഐ. എഫ്. എ4/83/കൃ. വ. തിരുവനന്തപുരം, 1984 മേയ് 19.

എസ്. ആർ. ഒ. നമ്പർ 1466/84.—1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21) 52-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരം, കേരള സർക്കാർ, ഇതോടൊന്നിച്ച് ചേർത്തിട്ടുള്ള പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും 1981 ഒക്ടോബർ 16-ാം തീയതിയിലെ എക്സ്പ്രസ് ദിനപ്പത്രത്തിൽ 6-ാം പേജിലും 1981 ഒക്ടോബർ 17-ാം തീയതിയിലെ ദീപിക ദിനപ്പത്രത്തിൽ 3-ാം പേജിലും പ്രസിദ്ധപ്പെടുത്തിയ പ്രസ്തുത ആക്റ്റ് 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരമുള്ള 1981 സെപ്റ്റംബർ 22-ാം തീയതിയിലെ എ3-523/81 എന്ന നമ്പർ വിജ്ഞാപനം പുറപ്പെടുവിച്ചുകൊണ്ട് സ്ഥലമെടുപ്പ് നടപടികൾ ആരംഭിച്ചിട്ടുള്ളതും 1982 മേയ് 1-ാം തീയതിയിലെ എക്സ്പ്രസ് ദിനപ്പത്രത്തിൽ 6-ാം പേജിലും 1982 മേയ് 3-ാം തീയതിയിലെ ദീപിക ദിനപ്പത്രത്തിൽ 5-ാം പേജിലും പ്രസിദ്ധപ്പെടുത്തിയ പ്രസ്തുത ആക്റ്റ് 6-ാം വകുപ്പ് പ്രകാരമുള്ള 1982 ഏപ്രിൽ 19-ാം തീയതിയിലെ എ2-177/82 എന്ന നമ്പർ പ്രഖ്യാപനം പ്രസിദ്ധപ്പെടുത്തിയിട്ടുള്ളതുമായ ഭൂമി വിലയ്ക്കെടുക്കുന്നതിൽ നിന്നും ഇതിനാൽ പിൻവാങ്ങുന്നു.

പടിക

ജില്ല—തൃശ്ശൂർ. താലൂക്ക്—തൃശ്ശൂർ.
വില്ലേജ്—പുല്ലഴി. ദേശം—കര.
പുഴയ്ക്കൽ തോട് ബ്ലോക്ക് നമ്പർ 20.

പ്രഖ്യാപനത്തിലെ ക്രമനമ്പർ	സർവ്വേ നമ്പർ	വിവരണം	വിസ്തീർണ്ണം (ഹെക്ടറിൽ)
1	337/3	നിലം	0.0030
5	341/1-3	നിലം	0.5200

ഗവർണ്ണറുടെ ഉത്തരവുപ്രകാരം,
എൻ. ചന്ദ്രശേഖരൻ നായർ,
ഗവൺമെൻറ് സ്പെഷ്യൽ സെക്രട്ടറി.

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിൻെറ ഭാഗമല്ല, എന്നാൽ അതിൻെറ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

സ്പെഷ്യൽ തഹസീൽദാർ (എൽ. എ.) നമ്പർ 11, തൃശ്ശൂർ ആഫീസിലെ എ2/258/81 നമ്പർ ഫയലിൽ, മേൽ നമ്പർ സർവ്വെ നമ്പരുകളിലെ സ്ഥലമെടുപ്പ് നടപടി പൂർത്തിയായിട്ടുള്ളതിനാൽ മേൽനടപടി ആവശ്യമല്ലാത്തതിനാൽ ഈ പിൻവാങ്ങൽ പരസ്യം പുറപ്പെടുവിച്ചിട്ടുള്ളതാകുന്നു.



GOVERNMENT OF KERALA

Abstract

LOCAL FUND AUDIT DEPARTMENT—SPECIAL RULES FOR APPOINTMENT OF DEPUTY EXAMINER IN THE LOCAL FUND AUDIT DEPARTMENT UNDER SPECIAL RECRUITMENT SCHEME

FINANCE (ESTABLISHMENT—D) DEPARTMENT

G. O. (P) No. 619/84/Fin. **Dated, Trivandrum, 27th October 1984.**

NOTIFICATION

S. R. O. No. 1467/84.—In exercise of the powers conferred by subsection (1) of section 2 of the Kerala Public Service Act, 1968 (19 of 1968), the Government of Kerala hereby make the following Special Rules for Special Recruitment from among the members of Scheduled Castes and Scheduled Tribes to the post of Deputy Examiner of Local Fund Accounts in the Local Fund Audit Department, namely:—

RULES

1. (a) These rules may be called the Special Rules for Special Recruitment from among the members of Scheduled Castes and Scheduled Tribes to the post of Deputy Examiner of Local Fund Accounts in the Local Fund Audit Department, 1984, they shall come into force at once.

(b) The minimum educational qualification for appointment to the post shall he a Bachelors Degree of any Recognised University or its equivalent. Preference shall he given to degree holders in the subjects of Commerce, Economics and Mathematics.

2. *Method of appointment*:—Direct Recruitment.

3. No person shall be eligible for appointment to the above post if he has not completed 25 years of age or has completed 40 years of age on the 1st day of January of the year in which applications for appointment are invited. The relaxation in age limit envisaged in subrule (c) of rule 10 of the General Rules of the Kerala State & Subordinate Service Rules 1958, shall not apply to candidates for appointment under these rules.

4. Every person appointed under these rules shall be on training for a period of two years as prescribed by the Government. The period of training shall not be counted for probation.

5. A person selected for appointment to the post shall before undergoing training, execute an agreement in the form prescribed by the Government to undergo training and to serve the Department for a minimum period of 5 years or to serve as Auditor Grade II for 3 years if he fails in the prescribed tests and to refund to the Government the total amount drawn by him as pay and allowances excluding T. A. while undergoing training in case he fails to fulfil the conditions in the agreement.

6. Every person undergoing training under these rules shall be paid the minimum of the scale of pay attached to the post of Deputy Examiner of Local Fund Accounts plus the usual allowances.

7. Provided that if a person recruited to the post was holding a regular appointment in any other posts, under the Government, at the time of such recruitment, he shall be allowed to draw during the period of training the pay and allowances he would have drawn in that post.

8. Every person appointed under these rules shall on completion of training, be on probation for a total period of 2 years on duty within a continuous period of 3 years.

9. Every person appointed to the post shall within the period of probation pass the Local Fund Audit Test (Higher) and Account Test (Higher).

By order of the Governor,

P. THANGAIYAN,

Additional Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

In G.O. (Rt.) No. 2963/82/GAD, dated 26-4-1982 Government ordered that one post of Deputy Examiner of Local Fund Accounts in the Local Fund Audit Department be reserved for appointment by Special Recruitment from among Scheduled Castes/Scheduled Tribes. There is no existing provision for direct recruitment to the post of Deputy Examiner of Local Fund Accounts in the Local Fund Audit Department. Government therefore consider it necessary to make Special Rules under the Public Services Act for the recruitment of Scheduled Caste/Scheduled Tribe candidates to the post of Deputy Examiner of Local Fund Accounts in the Local Fund Audit Department. This notification is to achieve the above purpose.

The Accountant General, Kerala, Trivandrum

All Departments of the Secretariat.

All Heads of Departments and Offices

The Secretary, Kerala Public Service Commission (with C. L.)

The General Manager, Kerala State Road Transport Corporation (with C. L.)

The Secretary, Kerala State Electricity Board.

The Registrar of High Court, Ernakulam (with C. L.)

The Registrar, University of Kerala/Cochin/Calicut (with C. L.)

The Registrar, Agricultural University, Mannuthy, Trichur (with C. L.)

All Special Secretaries, Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to Government.

The Secretary to the Governor

The Under Secretary to Chief Secretary.

Private Secretaries to Chief Minister and all other Ministers.



GOVERNMENT OF KERALA

General Education (J) Department

NOTIFICATION

G. O. (P) No. 244/84/G. Edn. *Dated, Trivandrum, 9th November* 1984.

S. R. O. No. 1468/84.—In exercise of the powers conferred by section 12 of the Kerala Education Act, 1958 (6 of 1959), rade with section 36 thereof, the Government of Kerala hereby make the following Rules, further to amend the Kerala Education Rules, 1959 namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Education (Amendment) Rules, 1984.

(2) This shall come into force on the 27th day of November 1982.

2 *Amendment of the Rules.*—In the Kerala Education Rules, 1959, in Chapter XXVII (A), —

(i) The second proviso to sub-rule (1) of rule 8 shall be deleted.

(ii) In Note (2), under clause (b) of rule 12, for the words "shall be calculated on the basis of the emoluments drawn during 12 months immediately preceding the date on which they complete 55 years of age" the words "shall be calculated on the basis of the emoluments drawn during 10 months immediately preceding the date on which they complete 60 years of age", shall be substituted.

By order of the Governor,

K. J. ALPHONS,

Deputy Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

In G. O. Ms. 179/82/G. Edn. dated 27-11-1982, it was ordered that pension to the XIV B opted teachers will be provided at the rate of 30/120 of the average emoluments drawn for the 10 months before age of retirement at 60. The amendment is intended to give statutory validity to the above part of the order.

GOVERNMENT OF KERALA

Industries (K) Department

NOTIFICATION

G. O. (Ms) 229/84/ID. *Dated, Trivandrum, 20th October* 1974.

S.R.O.No. 1469/84.—In exercise of the powers conferred by sub-section (1) of section 16 of the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974), the Government of Kerala hereby make the following rules to amend the Kerala Cashew Factories (Acquisition Rules), 1974, namely ;

Rules

1. *Short title and commencement.*—(1) These rules may be called the Kerala Cashew Factories (Acquisition) Amendment Rules, 1984.

(2) They shall come into force at once.

2. *Amendment of the Rules.*—In the Kerala Cashew Factories (Acquisition) Rules, 1974.

(1) for clause (c) of sub-rule (1) of rule 3, the following shall be substituted, namely:—

"(c) that there has been large scale unemployment, other than by way of lay off or retrenchment, of the workers of a cashew factory, give the occupier of the factory and the owner of the factory where he is not the occupier a notice of their intention to take action under subsection (1) of section 3."

(2) rule 6 shall be renumbered as sub-rule (1) of that rule and after sub-rule (1) as so renumbered the following sub-rules shall be inserted, namely:—

"(2) The Officer authorised shall have the power to use resonable force for entering the factory to take inventory under sub-rule (1) in case the factory is locked and the owner or occupier of the factory refuses to open the factory.

(3) In case the owner or occupier of the factory is not in a position to be present in person at the time of preparing the inventory under sub-rule (1), he may authorise in writing another person to be present on his behalf at the time of preparing the inventory.

(4) The inventory shall be prepared in the form of a mahazar and after preparing the inventory, the owner or occupier of the factory or both and the authorised officer shall affix their signature at the end of the inventory. If the owner or occupier of the factory or the person authorised is not present at the time of preparing the inventory the fact shall be noted at the foot of the inventory. A copy of the inventory shall also be given or sent by registered post to the owner or the occupier of the factory as the case may be."

(3) rule 7 shall be renumbered as sub-rule (1) of that rule and after sub-rule (1) as so renumbered, the following sub-rule shall be inserted, namely:—

"(2) The Officer authorised shall give or send by registered post a copy of the list containing the details of the properties and documents taken possession of by the authorised officers to the owner or occupier of the factory, as the case may be".,

(4) rule 9 shall be omitted;

(5) after sub-rule (3) of rule 10, the following sub-rule shall be inserted, namely:—

"(4). The list under sub-rule (3) shall be prepared in the form of a mahazar and a copy of the list shall be given to the owner or occupier of the factory, as the case may be";

(6) for rule 11, the following rule shall be substituted, namely:—

"(11). *Principles for determining value of land.*—In calculating the value of land for the purpose of determining the amount payable under section 9, the District Collector shall so far as may be, follow the procedure laid down in the Kerala Land Acqusition Act, 1961 (21 of 1962) subject to the provisions in the Schedule to the Act"..

(7) for rule 12, the following rule shall be substituted, namely:—

"(12). *Mode of determining value of buildings.*—The District Collector may get the buildings valued in accordance with the principles specified in the schedule by a Civil Engineer, not below the rank of an Executive Engineer of the Buildings and Roads Wing of the Public Works Department";

(8) in rule 13, for the words "by an officer of the Public Works Department", the words "by a Mechanical Engineer of the Public Works Department" shall be substituted;

(9) in rule 14, for the words "having circulation the locality" the words "having wide circulation in the locality" shall be substituted.

(10) in sub-rule (1) of rule 16, after item (g), the following item shall be added, namely:—

"(h) A copy each of the inventory and a list showing the list of articles taken possession of.";

(11) in sub-rule (1) of rule 22,—(a) for the words "seven days", the words "thirty days" shall be substituted;

(b) the following sentence shall be added at the end, namely:—

"The District Collector may, however, condone the delay in filing claims and objections under this rule, oo valid grounds".;

(12) rule 24 shall be omitted.

By order of the Governor,

ARUN KUMAR,

Secretary to Government (Industries).

Explanatory Note

(This is not part of the Notification but is intended to indicate to achieve its general purport).

The Committee on Subordinate Legislation 1976-1977 in its Thirteenth Report has suggested certain amendments to the Rules framed under the Kerala Cashew Factories (Acquisition) Act, 1974. Government have accepted some of the suggestions of the Committee and decided to amend the Rules accordingly. This Notification is to achieve this purpose.

GOVERNMENT OF KERALA

Industries (K) Department

ORDER

G.O. MS. No. 243/84/ID. *Dated, Trivandrum, 9th November* 1984.

S.R.O. No. 1470/84.—Whereas in exercise of the powers conferred by subsection (1) of section 3 of the Kerala Cashew Factories (Requisitioning) Act, 1979 (6 of 1979), the Government of Kerala by order issued in G. O. MS. No. 131/84/ID dated the 28th May, 1984 published as S.R.O. No. 533/84 in the Kerala Gazette Extraordinary No. 424 dated the 28th May, 1984, have requisitioned the cashew factory bearing Registration No. K. U. 53 situated in Kottamkara Panchayat in Quilon Taluk in Quilon District owned by M/s K. Mytheen Kunju and Sons with all the properties attached to it as specified in the schedule to the said order for a period of five years with effect from the 14th day of February 1982;

Now, therefore, in exercise of the powers conferred by subsection (3) of section 3 of the said Act, the Government of Kerala hereby direct that the said cashew factory vested in them by virtue of subsection (2) of the said section 3 shall, instead of continuing to vest in them, vest in the Kerala State Cashew Development Corporation Limited with effect from the 28th day of May, 1984.

By order of the Governor,

L. VIJAYAMMA,

Deputy Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Government have requisitioned the cashew factory with Register number K. U. 53 situated in Kottamkara Panchayat in Quilon Taluk in Quilon District for a period of five years under subsection (1) of Section 3 of the Kerala Cashew Factories (Requisitioning) Act, 1979. It is necessary to vest the above cashew factory in the Kerala State Cashew Development Corporation Limited, Quilon with effect from 28th May of of 1984. The notification is intended to achieve this object.

GOVERNMENT OF KERALA

Local Administration and Social Welfare (G) Department

NOTIFICATION

G. O. (MS) No. 50/84/LA&SWD. *Dated, Trivandrum, 2nd March* 1984,

S.R.O. No. 1471/84.—In exercise of the powers conferred by section 3 of the Travancore Town and Country Planning Act, 1120 (XXI of 1120), read with clause (iii) of rule 2 of the Travancore Town and Country Planning Rules, 1953, the Government of Kerala hereby make the following amendment to Notification I published under G.O.MS.No.43 dated the 28th February, 1978 as S.R.O.No.198/78 in the Kerala Gazette Extraordinary No.142 dated the 1st March, 1978, declaring portions of Velloor Village and Mulakkulam Village in Vaikom Taluk as "controlled area" for the purpose of the said Act; namely:—

AMENDMENT

In the said Notification, for the existing Appendix the following Appendix shall be substituted, namely:—

Appendix

The proposed boundaries of the area to be notified are given below:—

North boundary
Muvattupuzha river.

West boundary
Muvattupuzha river.

East boundary
Sy. Nos. 429, 417, 415, 414, 339 part, 344 part, 346 part, 343 part, 342 part, 348 part, 323, 321, 272 part, 320 part, 319, 318 and 277 of Mulakkulam Village.

South boundary
Sy. Nos. 373, 515, 514 part, 496 part, 497, 492, 487, 484, 48, 481 of Velloor Village and 252, 263, 264 part, 243, 238 and 235 of Mulakkulam Village.

Survey Numbers included
253, 254, 255, 256, 257, 258, 259, 261, 262, 264 part, 265, 266, 267, 268, 269 part, 270, 271, 272 part, 273, 274, 275, 276, 317, 320, 324, 325, 326 part, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339 part, 342 part, 343 part, 344 part, 346 part, 347, 348 part, 414 part, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427 part and 428 part of Mulakkulam

Village and 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 482, 484 part, 485, 486, 494, 495, 496, part, 514 part, 515, part, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634 part, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, and 665 of Velloor Village.

By order of the Governor,

M. S. K. RAMASWAMI,

Commissioner & Secretary.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

Government propose to include certain additional area within the jurisdiction of the Velloor-Mulakkulam Development Authority. The additional areas proposed to be added are mainly those areas acquired by Hindustan Paper Corporation for locating their solid effluent disposal unit. This notification is intended to achieve the above object.

Kerala Gazette No. 48 dated 4th December 1984.
PART I Section iv

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G. O. (Ms.) No. 282/84/LA&SWD. *Dated, Trivandram, 7th November* 1984.

S. R. O. No. 1472/84.—In exercise of the powers conferred by subsection (1) of section 142 of the Kerala Panchayats Act, 1960 (32 of 1960), and at the request of the Kuttapuzha Panchayat, contained in its Resolution No. 12 dated the 7th February, 1984, the Government of Kerala hereby declare that the provisions of law relating to Municipalities mentioned in the Schedule below shall be extended to and be in force, in the Kuttappuzha Panchayat area in Pathanamthitta District, with effect from 31-12-1984.

SCHEDULE

Clauses (3), (4), (16), (28), (30), (3) and (39) of section 3, provisions of Chapters IX and X, sections 347, 349, 350, 352, 355, 359, 363, 364 and 365, in so far as they relate to matters specified in Chapters IX and X of the Kerala Municipalities Act, 1960 (14 of 1961), and the provisions regarding penalties specified in Schedules V and VI of the said Act for contravention of sections 196, 197, 202, 204, 205, 207, 209 to 213, 215, 216, 218 to 221, 223 to 227 and 245 of the said Act and the Kerala Municipal Building Rules, 1968.

By order of the Governor,
V. R. PADMANABHAN,
Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

Kuttappuzha Panchayat in Pathanamthitta District has resolved to enforce in its area certain provisions of the Kerala Municipalities Act, 1960 and the Kerala Municipal Building Rules, 1968, in order to bring some control over the constructions made within the Panchayat area. The Director of Panchayats after consultation with the Chief Town Planner has recommended the proposal.

Government are pleased to accept the proposal and this notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G. O. (Ms.) No. 283/84/LA & SWD.

Dated, Trivandrum, 7th November 1984.

S.R.O. No. 1473/84.—In exercise of the powers conferred by sub-section (1) of section 142 of the Kerala Panchayats Act, 1960 (32 of 1960), and at the request of the Ettumanoor Panchayat contained in its resolutions No. 1 dated the 30th March, 1930 and No. 14 dated the 10th February, 1984, the Government of Kerala hereby declare that the provisions of Law relating to Municipalities mentioned in the Schedule below shall be extended to and be in force, in the Ettumanoor Panchayat area in Kottayam District, with effect from 31-12-1984.

SCHEDULE

Clauses (3), (4), (16), (28), (30) (33) and (39) of section 3, provisions of Chapters IX and X, sections 347, 349, 350, 352, 355,359,363, 364&365 as far as they relate to matters specified in Chapters IX and X of the Kerala Municipalities Act 1960 (14 of 1961), and the provisions regarding penalties specified in Schedules V and VI of the said Act for contravention of sections 196, 197, 202, 204, 205, 207, 209 to 213, 215, 216,218 to 221, 224 to 227 and sub-section (10) of section 363 of the said Act and the Kerala Municipal Building Rules, 1968.

By order of the Governor,
V. R. PADMANABHAN,
Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

Ettumanoor Panchayat in Kottayam District has resolved to enforce in its area certain provisions of the Kerala Municipalites Act, 1960 and the Kerala Municipal Building Rules 1968, in order to bring some control over the constructions made within the Panchayat area. The Director of Panchayats after consulting the Chief Town Planner recommended the proposal.

Government accepted the proposal and this Notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G.O. (MS) No. 284/84/LA&SWD. *Dated, Trivandrum, 7th November* 1984.

S. R. O. No. 1474/84.—In exercise of the powers conferred by sub-section (1) of section 142 of the Kerala Panchayat Act, 1960 (32 of 1960), and at the request of the Pathanapuram Panchayat, contained in its Resolution No. 5 dated the 16th February 1984, the Government of Kerala hereby declare that the provisions of Law relating to Municipalities mentioned in the Schedule below shall be extended to and be in force, in the Pathanapuram Panchayat area in Quilon District with effect from 31-12-1984.

SCHEDULE

Clauses (3), (4), (16), (28), (30), (33) and (39) of section 3, provisions of Chapters IX and X, sections 347, 349, 350, 352, 355, 359, 363, 364 and 365 as far as they relate to matters specified in Chapters IX and X of the Kerala Municipalities Act, 1960 (14 of 1961), and the provisions regarding penalties specified in Schedules V and VI of the said Act for contravention of sections 196, 197, 202, 204, 205, 207, 209 to 213, 215, 216, 218 to 221, 223 to 227 and 245 of the said Act and the Kerala Municipal Building Rules, 1968.

By order of the Governor,

V. R. PADMANABHAN,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Pathanapuram Panchayat in Quilon District has resolved to enforce in its area certain provisions of the Kerala Municipalities Act, 1960, and the Kerala Municipal Building Rules, 1968, in order to bring some control over the constructions made within the Panchayat area. The Director of Panchayats after consultation with the Chief Town Planner has recommended the proposal.

Government are pleased to accept the proposal and this notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G.O.Ms.No. 286/84/LA&SWD. *Dated, Trivandrum 8th November 1984.*

S.R.O. No. 1475/84.—In exercise of the powers conferred by subsection (1) of section 142 of the Kerala Panchayats Act, 1960 (32 of 1960), and at the request of Kottamkara Panchayat contained in its resolution No. 6 dated the 30th January, 1984, the Government of Kerala hereby declare that the provisions of the law relating to the Municipalities mentioned in the Schedule below, shall be extended to, and be in force in Kottamkara Panchayat area in Quilon District with effect from 31-12-1984.

SCHEDULE

Clauses (3), (4), (16), (28), (30), (33) and (39) of section 3, provisions of Chapters IX and X, sections 347, 349, 350, 352, 355, 359, 363, 364 and 365 as far as they relate to matters specified in Chapters IX and X of the Kerala Municipalities Act, 1960 (14 of 1961), and the provisions regarding the penalties specified in Schedules V and VI of the said Act for the contravention of sections 19̣6, 197, 202, 204, 205, 207, 209, to 213, 215, 216, 218 to 221, 224 to 227 and 245 thereof and the Kerala Municipal Building Rules, 1968.

By order of the Governor,

V. R. PADMANABHAN,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Kottamkara Panchayat in Quilon District has requested to enforce certain provisions of the Kerala Municipalities Act, 196[illegible] and Kerala Municipal Buildings Rules, 1968 in its area. The Director of Panchayats in consultation with the Chief Town Planner, has recommended the request of the Panchayat. Government have accepted the proposal. This notification is intended to implement this proposal.

GOVERNMENT OF KERALA

Abstract

KERALA BUILDINGS (LEASE AND RENT CONTROL) ACT, 1965 — ENFORCEMENT IN KOOTTICKAL PANCHAYAT— ORDERS ISSUED

PUBLIC WORKS (E) DEPARTMENT

G. O. (Ms.) 131/84/PW,F&P. *Dated, Trivandrum, 15th November* 1984

NOTIFICATIONS

(i)

S. R. O. No. 1476/84.—Whereas the Koottickal Panchayat has in its resolution No. 13 dated the 25th April, 1983 requested that the provisions of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965) shall be applied to that Panchayat area;

Now, therefore, in exercise of the powers conferred by subsection (3) of section 1 of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965), the Government of Kerala hereby apply all the provisions of the said Act to the Koottickal Panchayat area in the Kottayam District with effect from the date of publication of this notification in the Gazette.

(ii)

S. R. O. No. 1477/84.—In exercise of the powers conferred by sub-section (1) of section 3 of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965), the Government of Kerala hereby appoint the Munsiff, having jurisdiction over the Koottickal Panchayat area in the Kottayam District, to be the Rent Control Court for the said area, with effect from the date of publication of this notification in the Gazette.

(iii)

S. R. O. No. 1478/84.—In exercise of the powers conferred by sub-section (2) of section 3 of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965), the Government of Kerala hereby appoint the Tahsildar, having jurisdiction over the Koottickal Panchayat area in the Kottayam District, to be the Accommodation Controller for the said area, with effect from the date of publication of this notification in the Gazette.

(iv)

S. R. O. No. 1479/84.—In exercise of the powers conferred by clause (a) of subsection (1) of section 18 of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965), the Government of Kerala hereby confer on the Subordinate Judge or the Principal Subordinate Judge, as the case may be, having jurisdiction over the Koottickal Panchayat area in the Kottayam District, the powers of the Appellate Authority for the purposes of the said Act in the said area with effect from the date of publication of this notification in the Gazette.

By order of the Governor,

R. C. CHOUDHURY,

Secretary to Government.

Explanatory Note

(This does not form part of the above notifications, but is intended to indicate their general purport.)

The Koottickal Panchayat in the Kottayam District has in its resolution No. 13 dated the 25th April, 1984 requested Government to extend the provisions of the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965) to its area. Under section 1 (3) of the said Act, Government can extend the provisions of the Act to any area of the State by a notification in the Gazette, provided that such notification shall be supported by a resolution passed by the local authority of the area affected by the notification. The above notifications are to achieve the above purpose and issued on the request of the Panchayat concerned.

GOVERNMENT OF KERALA

Revenue (Legislation) Department

NOTIFICATION

G. O. (Ms) No. 1034/84/RD. *Dated, Trivandrum, 20th October* 1984.

S. R. O. No. 1480/84.—In exercise of the powers conferred by section 99A of the Kerala Land Reforms Act, 1963 (1 of 1964), the Government of Kerala hereby make the following amendments to their Notification G.O. (Ms) No. 1034/83/RD dated the 7th November, 1983, published as S.R.O. No. 1565/83 in the Kerala Gazette Extraordinary No. 1350 dated the 8th November, 1983, namely:—

AMENDMENTS

In the Schedule to the said Notification,—

(1) For the entry in column (2) against serial number 5, the following entry shall be substituted, namely:—

"Cannanore, Kasaragod Districts and Badagara Taluk in Kozhikode District."

(2) Serial number 6 and the entries against it in columns (2), (3) and (4) shall be omitted.

By order of the Governor,

SAYAN CHATTERJEE,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to bring out its purport.)

In G.O. Rt. No. 528/84/RD dated 28-3-1984, the Appellate Authority (LR), Kasaragod with its entire staff has been abolished with effect from 1-4-1984 and the records transferred to the Office of the Appellate Authority (LR), Cannanore. So also a new district viz. Kasaragod district has been formed vide G.O. (P) 458/84/RD dated 30-4-1984. Hence it has become necessary to re-define the territorial jurisdiction of the Appellate Authority (Land Reforms), Cannanore consequent on the abolition of the Appellate Authority (Land Reforms), Kasaragod. The notification is intended to achieve the above objective.

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GOVERNMENT OF KERALA

Taxes (C) Department

NOTIFICATION

G. O. (P) No. 168/84/TD. *Dated, Trivandrum, 31st October* 1984.

S. R. O. No. 1481/84.—In exercise of the powers conferred by section 68 of the Kerala Chitties Act, 1975 (23 of 1975), the Government of Kerala hereby make the following rules, further to amend the Kerala Chitties Rules, 1975, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Chitties (Amendment) Rules, 1984.

(2) They shall come into force at once.

2. *Amendment of the rules.*—In the Kerala Chitties Rules, 1975, for the words "District Registrar, Chitty Administration, Headquarters" wherever they occur, the words and brackets "Assistant Inspector General of Registration (Chit Schemes)" shall be substituted.

By order of the Governor,

R. P. SING,

Secretary, Finance (Expenditure) in charge of Secretary to Government (Taxes).

Explanatory Note

(This is not part of the amendment, but is intended to indicate its general purport).

As per G. O. (Rt.) No. 286/81/TD dated 30-4-1981 Government of Kerala have redesignated certain posts in the Registration Department including that of District Registrar, Chitty Administration, Headquarters consequently the post of District Registrar, Chitty Administration, Head quarters as it now appears in the Chitty Rules has also to be changed as Assistant Inspector General of Registration (Chit Schemes). The change in designation is only in nomenclature and not in the grade or emoluments. Accordingly necessary amendments have to be brought about in the Kerala Chitties Rules, 1975, also.

This notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Transport (B) Department

NOTIFICATION

G.O.Rt.No. 655/84/Tr. D. *Dated, Trivandrum, 25th October* 1984.

S. R. O. No. 1482/84.—Whereas the Deputy General Manager (Projects), Cochin Refineries Limited, Ambalamugal, has stated that a tyre-mounted Mobile Crane, the details of which are hereunder given, was imported from the United States of America to speed up the construction activities of the Expansion Project of the Refineries;

And whereas, he has stated that the above crane will be used only inside the premises of the Refineries in normal course and that the chance of it being taken out of the Refinery is very remote;

And whereas, the overall width of the Mobile Crane exceeds the limit specified in clause (i) of sub-rule (1) of rule 3 of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982;

And whereas, the Government of Kerala are satisfied that the said crane with such excess measurements in overall width is suitable for carrying out a work of public purpose, namely, to speed up the construction activities of the Expansion Projects of the Refineries;

Now therefore, in exercise of the powers conferred by the second proviso to sub-rule (1) of rule 3 of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982, the Government of Kerala hereby exempt the said Crane, from the provisions of clause (i) of sub-rule (1) of rule 3 of the said Rules.

DETAILS OF THE CRANE

Class	— Mobile Crane
Type	— Tyre mounted
Make	— U. S. A.
Over all width	— 370 Centimetres.

By order of the Governor,

V.A. AUGUSTINE,

Additional Secretary to Government.

[P.T.O.]

Explanatory Note

(This is not part of the notification, but is intended to indicate its main purport.)

The Deputy General Manager (Projects), Cochin Refineries Limited, Ambalamugal, has requested the Government to exempt the Crane mentioned in the above notification from the provisions of rule 3 (1) (i) of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982, since the overall width of the Crane exceeds the prescribed limit. Government have considered the request and recommendation of the Transport Commissioner and have decided to grant the exemption sought for. Hence this notification.

GOVERNMENT OF KERALA

Transport (B) Department

NOTIFICATION

G. O. Rt. No. 670/84/Transport. *Dated, Trivandrum, 12th November* 1984.

S. R. O No. 1483/84.—Whereas the Secretary, Government Model High School Parent-Teacher Association, Trivandrum has stated that a bus, details of which are hereunder given, was purchased from the Kerala State Road Transport Corporation, Trivandrum and has to re-register it as Omnibus.

And whereas, the overall width of the vehicle exceeds the limit specified in clause (i) of sub rule (1) of rule 3 of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982 ;

And whereas, the Government of Kerala are satisfied that the said vehicle with such excess measurement in overall width is suitable for carrying out a work of public purpose, namely the conveyance of students from their home to School and back without hire or reward;

Now, therefore in exercise of the powers conferred by the second proviso to sub rule (1) of rule 3 of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982, the Government of Kerala hereby exempt the said vehicle from the provisions of clause (i) of sub rule (1) of rule 3 of the said Rules.

DETAILS OF THE VEHICLE

1. Register No.—KLX 1799
2. Class of the vehicle—Omnibus
3. Type of body—Saloon
4. Engine Number—ALI—83068
5. Chassis Number—AL—7145 275
6. Overall width—246 Centimetres
7. Overall length—915 Centimetres
8. Overhang—270 Centimetres

By order of the Governor,

V. A. AUGUSTINE,

Additional Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate its main purport).

The Secretary, Government Model High School Parent-Teacher Association, Trivandrum has requested Government to exempt the vehicle mentioned in the above notification from the provisions of rule 3 (1) (i) of the Overall Dimensions of Transport Vehicles and Tyres Rules, 1982, since the overall width of the vehicle exceeds the prescribed limit. Government have considered the request in consultation with the Transport Commissioner, Trivandrum and have decided to grant the exemption sought for. Hence this notification.

GOVERNMENT OF KERALA

Transport (C) Department

NOTIFICATION

No. 12512/TC2/84/Tr. D. *Dated, Trivandrum*, 19*th September* 1984.

S.R.O. No. 1484/84.—Whereas representation has been received by Government from the Stage Carriage Operator Shri P. G. Gopinathan, Eraveliyil House, Cochin that the vehicle tax for the quarter ended on the 31st March 1984, in respect of the Stage Carriage bearing Registration Number KLF 2201 could not be remitted within the prescribed period due to financial strain and that extension of time for payment of Vehicle tax in respect of this vehicle may, therefore, be granted;

And whereas, the Government are convinced that circumstances existed that the operator of the said stage carriage could not remit the vehicle tax in respect of the said stage carriage ordinarily kept for use in the State for the quarter ended on the 31st March 1984 due to financial strain;

And whereas, the Government are convinced that non-operation of the said stage carriage due to non-payment of tax would have caused great inconvenience to the travelling public;

And whereas, the Government consider it necessary to extend in public interest the time for payment of the vehicle tax for the quarter ended on the 31st March, 1984 in respect of the said stage carriage;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ended on the 31st March 1984 in respect of the said stage carriage ordinarily kept for use in the state shall be paid on or before the 20th May, 1984 together with additional tax payable under section 12 of the Kerala Motor Vehicles Taxation Act, 1976 read with the notification (5) No. 33942/TC2/75-5/PW. dated the 29th September, 1975 published as S.R.O. No. 876/75 in the Kerala Gazette Extraordinary No. 572 dated the 29th September, 1975.

By order of the Governor
V.A. Augustine,
Additional Secretary to Government

[P.T.O.]

Explanatory Note

(This is not part of the notification, but is intended to indicate the main purpose of the issue of the notification).

Government have received representation from the Stage Carriage Operator as shown in the notification requesting extension of time for payment of vehicle tax for the quarter ended on the 31st March 1984 due to financial strain;

Government are convinced of the position and in public interest grant extension of time for payment of tax as otherwise these vehicles might be put out of operation for non-payment of tax causing great inconvenience to the travelling public.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

General Administration (SC) Department

NOTIFICATION

No. 20-SC|84|GA(SC). *Dated, Trivandrum, 4th December, 1984.*

The following is the revised Select List, as approved by the Government, of officers for promotion to the category of Joint Secretary to Government in the Administrative Secretariat prepared by the Departmental Promotion Committee. This revises the Select List published as per Notification No. 20-SC|84-2|GA(SC) dated 12-6-1984.

SELECT LIST

1. Shri C. U. Vasudevan
2. „ C. J. Joseph
3. „ K. I. Thomas
4. „ P. V. Mathew
5. „ T. P. Sreedharan
6. „ Abraham Philip (Sr.)
7. „ P. K. Rajasekharan Nair
8. „ B. Ravindranathan
9. Smt. P. Jadayudai Moni Ammal

10. Shri K. P. Joseph
11. „ Abraham Philip (Jr.)
12. „ R. Muthukrishnan
13. „ P. Gopalan Nair
14. Smt. Chinnamma Paily
15. Shri P. K. Gangadharan
16. „ V. P. Madhava Panicker.

V. RAMACHANDRAN,
Chief Secretary to Government,
Convener,
Departmental Promotion Committee.

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1984

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GOVERNMENT OF KERALA

Home (F) Department

NOTIFICATION

G. O. (MS) 166|84|Home. *Dated, Trivandrum, 3rd December, 1984.*

S. R. O. No. 1499|84.—In exercise of powers conferred by Section 7 of the Kerala Cinemas (Regulation) Act, 1958 (32 of 1958) the Government of Kerala hereby approve the Special Newsreel Film (DRISYAKERALAM) No. 41 titled as 'INDIRA PRIYADARSINI' in Malayalam (Black and White) part in colour, certified as a Newsreel Film for 'Unrestricted'. Public Exhibition by the Central Board of Film Certification of Government of India as per Certificate No. 29 dated 30-11-1984 as an Approved Film for the purpose of the said Act and the conditions of licence for exhibition in Cinematograph shows and direct all licensees to exhibit the said film according to the said provisions of the said Act and Rules and the conditions of licence.

By order of the Governor,

N. KALEESWARAN,
Commissioner and Secretary.

33|4944|MC.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

According to Section 7 of the Kerala Cinemas (Regulation) Act 1958, the Government may from time to time issue directions to any licensee or licensees generally requiring the licensee or licensees to exhibit such film or class of films having a scientific or educative value, such films dealing with news and current events, such documentary films, indegeneous films or such other films having special value to Public as may have been approved by the Government in that behalf from time to time. The Kerala State Film Development Corporation has produced a special Newsreel Film 'DRISYA-KERALAM' No. 41 entitled 'INDIRA PRIYADARSINI' in Malayalam (Black and White) (Part in colour). The film has been certified as documentary film for unrestricted public exhibition by the Central Board of Film Certification. Government wish that the film be shown in theatres circuit throughout the State. The notification is intended to achieve the purpose.

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1984



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GOVERNMENT OF KERALA

Transport (H) Department

DECLARATION

No. 23722/H3/83/Tr.D. *Dated, Trivandrum, 20th November* 1984.

S.R.O. No. 1500/84.—Whereas in exercise of the powers conferred by clause (1) of Article 258 of the Constitution of India, the President has in Notification No. 2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent, the functions of the Central Government under the Kerala Land Acquisition Act, 1961 (21 of 1962), in relation to the acquisition of land for the purpose of the Union in the State of Kerala ;

And, whereas under subsection (1) of section 3 of the Kerala Land Acquisition Act, 1961 (21 of 1962), Notification No. 10559/TB2/82/TF&P dated 3-6-1982 in respect of the lands specified in the schedule below have been published in the Kerala Gazette Extraordinary No. 445 dated the 18th June 1982.

And whereas, under subsection (4) of section 19 of the said Act the Government of Kerala have directed that in view of the urgency of the case, the provisions of section 5 of the Act shall not apply to the lands specified in the schedule below ;

33/4946/S.

And whereas, the Government of Kerala are satisfied that the said lands have to be acquired for a public purpose ;

Now, therefore, the Government of Kerala hereby declare under section 6 of the Act that the lands specified in the Schedule below and measuring 0.3445 hectare be the same a little more or less are needed for a public purpose, to wit for coustructing a microwave station at Punalur and under section 7 of the said Act direct the Assistant Collector, Quilon to take order for the acquisition of the lands. Further, under subsection (1) of section 19 of the said Act, Government direct that the Collector may take possession of the lands on the expiry of fifteen days from the date of publication of notice mentioned in subsection (1) of section 9 of the said Act.

A plan of the lands is kept in the Office of the Assistant Collector, Quilon and may be inspected at any time during office hours.

SCHEDULE

District—Quilon

Taluk—Pathanapuram. Village—Punalur.

(The extent given is approximate)

Description—Dry

Sl. No.	*Sy. No.*	*Extent Hectare*
1	599/1/107/14	0.0720
2	599/1/161/15	0.0245
3	599/1/161/16	0.0360
4	599/1/161/18	0.1720
5	599/1/161/17	0.0400
	Total	0.3445

Explanatory Note

(This is not part of the Notification, but is intended to bring out the general purport).

The President of India has in Notification No. 2/4/63/Judicial II dated 31-5-1963 entrusted the Government of Kerala with their consent the powers to acquire land for the use of the Central Government in the State and it appears to the State Government that the lands mentioned in the schedule above are needed for a public purpose viz for constructing a microwave station at Quilon.

This declaration is intended for the above purpose.

എസ്. ആർ. ഒ. നമ്പർ 1500/84.—ഇൻഡ്യൻ ഭരണഘടന 258 ാം അനുച്ഛേദം (1)-ാം ഖണ്ഡം മൂലം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, പ്രസിഡന്റ്, 1963 മേയ് 31-ാം തീയതിയിലെ 2/4/63 ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപനപ്രകാരം കേരള സംസ്ഥാനത്ത് യൂണിയന്റെ ആവശ്യത്തിനായി ഭൂമി വിലയ്ക്കെടുക്കുന്നതു സംബന്ധിച്ച് 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21) അനുസരിച്ചുള്ള കേന്ദ്ര സർക്കാരിന്റെ ചുമതലകൾ കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേല്പിച്ചിരിക്കുന്നതിനാലും ;

താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള ഭൂമിയെ സംബന്ധിച്ച് 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21) 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരമുള്ള 6-6-1982-ലെ 10559/റി. ബി12/82/റി. എഫ് & പി. എന്ന നമ്പർ വിജ്ഞാപനം 1982 ജൂൺ 18-ാം തീയതിയിലെ 445-ാം നമ്പർ അസാധാരണ കേരള ഗസറ്റിൽ പ്രസിദ്ധീകരിച്ചിട്ടുള്ളതിനാലും ;

പ്രസ്തുത ആക്റ്റ് 19-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പുപ്രകാരം, കേരള സർക്കാർ സംഗതിയുടെ അടിയന്തിര സ്വഭാവം പരിഗണിച്ച് പ്രസ്തുത ആക്റ്റ് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകൾ താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള ഭൂമിക്ക് ബാധകമാകുന്നതല്ലെന്ന് നിർദ്ദേശിച്ചിരിക്കുന്നതിനാലും ;

പ്രസ്തുത ഭൂമി ഒരു പൊതു ആവശ്യത്തിനായി വിലയ്ക്കെടുക്കേണ്ടതാണെന്ന് കേരള സർക്കാരിനു ബോദ്ധ്യം വന്നിരിക്കുന്നതിനാലും ;

ഇപ്പോൾ, അതിനാൽ, പ്രസ്തുത ആക്റ്റ് 6-ാം വകുപ്പുപ്രകാരം കേരള സർക്കാർ, താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും 0.3445 ഹെക്ടർ വിസ്തീർണ്ണമോ അതിൽ അല്പം കൂടുതലോ കുറവോ വരുന്നതുമായ ഭൂമി ഒരു പൊതു ആവശ്യത്തിന്, അതായത് പുനലൂരിൽ മൈക്രോവേവ് സ്റ്റേഷൻ പണിയുന്നതിന് ആവശ്യമാണെന്ന് ഇതിനാൽ പ്രഖ്യാപിക്കുകയും, പ്രസ്തുത ആക്റ്റ് 7-ാം വകുപ്പുപ്രകാരം ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനുള്ള ഉത്തരവ് വാങ്ങുന്നതിന് കൊല്ലം അസിസ്റ്റന്റ് കളക്ടറോട് നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു. മാത്രമല്ല പ്രസ്തുത ആക്റ്റ് 9-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പറഞ്ഞിരിക്കുന്ന നോട്ടീസ് പ്രസിദ്ധീകരിക്കുന്ന തീയതി മുതൽ പതിനഞ്ചു ദിവസം കഴിയുമ്പോൾ കളക്ടർക്ക് പ്രസ്തുത സ്ഥലം കൈവശപ്പെടുത്താവുന്നതാണെന്ന് പ്രസ്തുത ആക്റ്റ് 19-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരം സർക്കാർ നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു.

സ്ഥലത്തിന്റെ പ്ലാൻ കൊല്ലം അസിസ്റ്റന്റ് കളക്ടറുടെ ആഫീസിൽ സൂക്ഷിച്ചിട്ടുള്ളതും ആഫീസ് സമയത്ത് എപ്പോൾ വേണമെങ്കിലും അതു പരിശോധിക്കാവുന്നതുമാകുന്നു.

പട്ടിക

ജില്ല—കൊല്ലം

താലൂക്ക്—പത്തനാപുരം

വില്ലേജ്—പുനലൂർ.

(ഏകദേശ വിസ്തീർണ്ണമാണ് കൊടുത്തിരിക്കുന്നത്)

വിവരണം—പുരയിടം.

ക്രമനമ്പർ	സർവ്വേ നമ്പർ		വിസ്തീർണ്ണം ഹെക്ടററിൽ
1	599/1/107/14		0.0720
2	599/1/161/15		0.0245
3	599/1/161/16		0.0360
4	599/1/161/18		0.1720
5	599/1/161/17		0.0400
		ആകെ	0.3445

വിശദീകരണ കുറിപ്പ്

(ഇത് പ്രഖ്യാപനത്തിന്റെ ഭാഗമല്ല. എന്നാൽ പൊതു ഉദ്ദേശം വെളിപ്പെടുത്തുവാനുദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

ഇൻഡ്യൻ രാഷ്ട്രപതി 31-5-1963-ലെ 2/4/63 ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപനംമൂലം ഈ സംസ്ഥാനത്ത് കേന്ദ്രസർക്കാരിന്റെ ഉപയോഗത്തിനായി ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനുള്ള അധികാരം കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേൽപ്പിച്ചിട്ടുള്ളതും മുകളിൽ പട്ടികയിൽ വിവരിച്ചിട്ടുള്ള ഭൂമി ഒരു പൊതു ആവശ്യത്തിന് അതായത് പുനലൂരിൽ മൈക്രോവേവ് സ്റേറഷൻ പണിയുന്നതിന് ആവശ്യമാണെന്ന് സർക്കാരിന് ബോദ്ധ്യപ്പെട്ടിട്ടുള്ളതും ആകുന്നു.

മേൽപ്പറഞ്ഞ ഉദ്ദേശം നിറവേററുന്നതിനു വേണ്ടിയുള്ളതാണ് ഈ പ്രഖ്യാപനം.

By order of the Governor,

V. A. Augustine,
Additional Secretary to Government.

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